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

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 410, 530, 531, 536, 550, 551, 575, 591, and 610

RIN 3206–AH11

Miscellaneous Changes in Compensation Regulations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing final regulations to correct or clarify various regulatory provisions dealing with the compensation of Federal employees. Many of the changes were prompted by questions and comments from users of the regulations. The regulatory changes are intended to assist agencies in administering compensation programs and to provide clearer information to employees covered by those programs.

DATES: This rule is effective January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Bryce Baker, (202) 606–2858, FAX: (202) 606–0824, or email to payleave@opm.gov.

SUPPLEMENTARY INFORMATION: On November 24, 1998, the Office of Personnel Management (OPM) published proposed regulations dealing with a number of miscellaneous changes in OPM's pay administration regulations. (See 63 FR 64880.) These changes were proposed to correct various typographical or technical errors or omissions and to codify or clarify OPM policies. The supplementary information section of the proposed regulations changes included a table describing each regulatory change by section number.

OPM received comments from five agencies, one labor union, and four individuals on the proposed regulations. Several agencies made general comments supporting the proposed regulations as providing helpful clarification. We provide below a description of each specific comment and our response. All references to regulatory sections are in title 5, Code of Federal Regulations, unless otherwise noted.

Review of Comments on Proposed Regulations

Aggregate Limitation on Pay

Section 530.202—Discretionary Payment

A union questioned the proposed revision of the definition of *discretionary payment* in § 530.202. It commented that the change is described as a clarification without a supporting citation.

In the supplementary information section of the proposed regulations, we cited the supplementary information section of the original final regulations on the aggregate pay limitation'i.e., 58 FR 50248, September 27, 1993—which included this statement: ''Retention allowances are the only payments made on a pay-period-by-pay-period basis that remain discretionary once they have been authorized.'' Thus, the proposed revision is consistent with the intent of the original aggregate pay limitation regulations.

Section 530.202—Estimated Aggregate Compensation

A union opposed the proposal to revise the definition of *estimated aggregate compensation* in § 530.202 so that it clearly includes nondiscretionary payments to which an employee is expected to be entitled. The union believes that an overestimate of expected compensation would prevent the employee from receiving a discretionary payment. It stated that the current regulation is preferable because it does not allow speculation. The union also stated that if the purpose is to prevent excess payments, § 530.204 already provided an adequate mechanism for handling excess payments.

The proposed change merely clarifies that the term *estimated aggregate compensation* includes estimated or projected nondiscretionary payments. (See the supplementary information accompanying the final aggregate pay limitation regulations at 58 FR 50247 (September 27, 1993).) In the current regulations, the beginning part of the definition already states that a ''projection'' of what an employee ''will receive during the year'' based on ''known factors'' must be made. Thus, estimates of projected nondiscretionary payments must take into account known future changes that will affect the amount payable to the employee. (Note use of the term ''projected'' in § 530.203(c). Also, see examples given in the supplementary information accompanying the proposed rule at 63 FR 64880.) The purpose is to prevent excess payments, consistent with the intent of the law.

Section 530.204 does not deal with preventing or handling excess payments, but rather addresses the payment of monies properly withheld from the employee because of the cap that become payable at the beginning of the next calendar year. A new paragraph (f) in § 530.203 addresses the handling of erroneous excess payments.

We note that, with the exception of retention allowances, the aggregate pay limitation does not control the amount of discretionary payments agencies may award; however, the cap may result in such payments being delayed until the beginning of the next calendar year. If a projection of compensation is found to be high, the agency may immediately pay any previously deferred amounts as allowed under current projections, and any unpaid amount would be payable at the beginning of the next year. In these final regulations, we are revising the definition of *estimated aggregate compensation* as proposed, except that we are substituting the word ''projected'' in place of ''expected'' to emphasize the connection to the introductory part of the definition.

Section 530.203(f)

An agency suggested that we clarify the tax implications of deeming erroneous excess payments to be paid on January 1 of the next calendar year. It noted that, if the payment is treated as taxable income in the year paid (the normal rule), then the taxable income and the aggregate compensation for the subsequent year will differ.

OPM does not have authority to regulate tax matters. Our regulations deem erroneous excess payments to be paid on January 1 of the next calendar year only for the purpose of applying the aggregate pay limitation. Thus, it

may be possible that, in rare cases where the cap is exceeded, agencies will have to maintain different balances for taxable income and aggregate pay.

Basic Pay Administration

Section 531.203(d)(3)

An agency noted that the proposed § 531.203(d)(3) should reference § 531.203(d)(2)(vii) instead of (d)(2)(vi). We agree and are making the correction in these final regulations.

Section 531.203(d)(3) and 531.204(a)(2)

An agency requested that we add appropriate references to statutory special rates for law enforcement officers in §§ 531.203(d)(3) and 531.204(a)(2), consistent with the proposed change in § 531.203(d)(2).

We agree that law enforcement special rates should be excluded in applying the rule in § 531.203(d)(3), since that rule has application only for cases involving other types of special rates that are not basic pay for all purposes. Also, in § 531.204(a)(2) (dealing with pay setting upon promotion), a law enforcement special rate should be included within the term ''existing rate of basic pay.'' We have made appropriate changes in these final regulations.

Pay Retention

Section 536.102

A union opposed the proposed clarification of the definition of *demotion at an employee's request* in § 536.102. It stated that the proposed language referencing management actions ''related to'' personal cause could be broadly interpreted so that employees are miscategorized as ineligible for grade or pay retention.

The proposed revision of the definition of *demotion at an employee's request* is intended to make clear that a management action that is prompted by an employee's misconduct or unacceptable performance cannot be the basis for entitlement to grade or pay retention. By law, an employee is not eligible for grade or pay retention if demoted for personal cause or at the employee's request. Our regulations on grade and pay retention cover not only employees who are subject to purely involuntary reductions in grade or pay (*e.g.,* due to a reduction in force), but also employees whose reductions in grade or pay result from an employee's voluntary choice, if that choice was caused or influenced by a management action. This language is subject to broad interpretation to the benefit of employees. However, the interpretation cannot be so broad as to provide grade or pay retention to employees who voluntarily accept a reduction in grade in lieu of an adverse action based on misconduct or unacceptable performance.

The proposed revision would clarify that an employee who accepts a reduction in grade after receipt of a notice of demotion or separation based on misconduct or unacceptable performance would be considered demoted at the employee's request. Similarly, an employee who voluntarily accepts a lower grade as part of a settlement in lieu of an adverse management action based on personal cause would be considered demoted at the employee's request. Accordingly, we are making the proposed revision in these final regulations, except that we are adding the word ''directly'' before ''related'' to emphasize that the management action is directly prompted by the employee's misconduct or unacceptable performance.

Section 536.205(b)(4)

Two agencies questioned the justification for the proposed new rule, which prevents a retained rate employee's pay from being set below the maximum rate of the range for the employee's new position. One agency stated that the provision is contrary to the intent of the pay retention provision, since it provides for an increase in pay rather than just keeping the employee from losing money.

The proposed rule is designed to address an inequity that exists for certain employees entitled to a retained rate who are moved to a position for which there is a higher basic pay rate range. Under the pay retention rules, if the employee remains in the same position, the retained rate will eventually fall below the maximum (step 10) rate, and the employee will become entitled to that maximum rate. However, if, while still entitled to a retained rate, the employee is moved to a different position for which a higher basic pay rate range applies (*e.g.,* from a regular General Schedule rate range to a special rate range), the employee's pay could be slotted into the new rate range at a rate below the maximum rate. (See 5 CFR 536.205(b)(1)–(2).) In contrast, if the employee had already been at step 10 at the time of the movement, he would have been entitled to the step 10 rate in the new rate range. (See 5 CFR 530.306(e).) Since the maximum rate of the applicable range is the target rate for a retained rate employee, it makes sense to ensure that the employee is treated no worse than an employee receiving such maximum rate. We believe the proposed rule is equitable and appropriate and we are retaining it in these final regulations.

Overtime and Other Premium Pay

Section 550.103—Administrative Workweek

An individual requested clarification regarding the definition of *administrative workweek*-namely, do the seven consecutive 24-hour periods correspond to seven consecutive ''days'' as defined in this section? The answer is yes. The same ''day'' (a 24-hour period, not necessarily a calendar day) used in computing an employee's daily overtime entitlements must also be used in establishing the employee's *administrative workweek.* We have revised the definition of *administrative workweek* to directly link to the definition of *day.*

Section 550.103—Premium Pay

An agency suggested that the word ''earned'' be inserted before ''compensatory time off'' in the definition of *premium pay* in § 550.103. We agree that the intent was to include ''earned'' compensatory time off in the definition of premium pay, since the value of compensatory time off when earned is used in applying premium pay caps and in determining the value of unused compensatory time off when an employee becomes entitled to a cash payment (*e.g.,* at separation). Accordingly, we have revised the definition to clarify this. However, to assist users of the regulations, we have moved the second sentence of the definition, which dealt with how to determine the dollar value of compensatory time off, to the sections of the regulations dealing specifically with compensatory time off. Thus, a new paragraph is being added to §§ 550.114 and 551.531 in these final regulations.

A union objected to the proposal to clarify that compensatory time off is considered premium pay for purposes of applying biweekly and annual pay caps. It stated that employees may never receive pay for compensatory time off earned, since the employee is instead compensated by time off from his or her regular work schedule at a later date. The union concluded that other forms of premium pay should not be limited due to the accumulation of compensatory time off that may never be converted to pay.

The proposed inclusion of compensatory time off earned in the definition of *premium pay* is consistent with the longstanding policy of the Government. Many years ago, the Comptroller General found that compensatory time off should be

assigned a dollar value and used in applying aggregate pay caps. (See 26 Comp. Gen. 750 (1947) and 37 Comp. Gen. 362 (1957).) Compensatory time off is converted to dollars when an employee separates (or otherwise becomes eligible) using the overtime rate in effect at the time the hours were earned.

However, we note that, for employees covered by (nonexempt from) the Fair Labor Standards Act (FLSA) overtime provisions, overtime pay and compensatory time off earned in lieu of overtime pay are not considered to be ''premium pay'' under title 5, United States Code. This means that overtime pay and earned compensatory time off for FLSA-covered employees are disregarded when applying various pay caps, including the premium pay caps in 5 U.S.C. 5547. Thus, the inclusion of compensatory time off in the definition of *premium pay* has relevance only for FLSA-exempt employees. To assist users of the regulations, we are adding a sentence to the definition of *premium pay* to clearly state that FLSA overtime pay and compensatory time off earned in lieu of such overtime pay are excluded.

Sections 550.112(k)(1) and 551.431(a)(1)

An agency commented that the standards used to determine hours of standby duty are incomplete. As an example, the agency pointed out that an employee who is restricted to a ship may still have noncompensable off-duty hours while so restricted. It recommended that the proposed § 550.112(k)(1) and a parallel rule in the FLSA regulations at § 551.431(a)(1) be revised to more clearly consider whether the employee is restricted to an area because of an agency's need for the employee to remain in a constant state of readiness to perform work, as opposed to other reasons. It specifically cited OPM's standby duty premium pay regulations (5 CFR 550.143(a)(1)) as providing preferred language.

We agree that clarification is needed. There are situations where an employee may be relieved from duty but have limited mobility because of geographic isolation. For example, an employee may be temporarily assigned to a ship or to a post in a remote wildland area. Also, an employee may actually reside temporarily or indefinitely on agency premises adjacent to his or her work site. In such cases, the employee would be considered officially on duty only when the employee is required to work or is placed in a standby status by the agency. If an employee is relieved from duty and free to pursue personal activities (though, for practical reasons, limited in where he or she may go), the employee is not in a duty status and the hours are not compensable.

For example, an employee on a ship is not in a duty status if he or she is relieved from duty, released from his specific work station or post of duty, and allowed to pursue personal activities elsewhere on the ship. The fact that some restrictions may be placed on an employee's personal activities does not mean that the employee must be placed in duty status. For instance, certain work-related limitations such as restrictions on alcohol consumption or use of medication are not a basis for finding that an employee's activities are substantially limited. Accordingly, we are revising the proposed § 550.112(k) and making parallel changes in § 551.431(a) to provide appropriate clarification. (Note: If an employee in a nonduty status is called back to the work station to perform irregular or occasional overtime work, the employee is entitled to a minimum of 2 hours of overtime pay, consistent with 5 U.S.C. 5542(b)(1).)

Section 550.112(l)

A union commented that time in an ''on-call'' status should be considered hours of work because of the significant restrictions placed on the employee. The union stated that standby status and on-call status are not distinguishable.

The proposed rule in § 550.112(l) reflects the Government's longstanding policy and practice. (See Comptroller General decisions B–190369, February 23, 1978, and B–205118, March 8, 1982, and Federal Labor Relations Authority decision 51 FLRA No. 105, May 24, 1996.) We believe there is a discernible distinction between on-call status and standby status based on the nature of the restrictions placed upon the employee. We further believe that on-call hours during which the employee is under limited restrictions should not be compensable as hours of work. We are including the proposed § 550.112(l) without change in these final regulations.

Section 550.112(m)(3)

An individual inquired regarding OPM's policy on when sleep time constitutes compensable hours of work. In referencing the proposed rule in § 550.112(m), we realized that the use of the term ''tours of duty'' in paragraph (3) is inappropriate, since it is a defined term in subpart A (see § 550.103) that encompasses only regularly scheduled hours. The sleep time rule operates based on the length of the employee's work shift, without regard to whether the hours involved are regularly scheduled or irregular. Therefore, we have substituted the term ''work shifts'' in place of ''tours of duty'' in § 550.112(m)(3). For consistency, parallel changes are made in § 551.432 of OPM's FLSA overtime regulations.

Section 550.162(f)

A union stated its agreement with the proposed new paragraph (f) in § 550.162, which protects the status of employees receiving annual premium pay (i.e., administratively uncontrollable overtime pay and standby duty premium pay) who suffer an on-the-job injury resulting in entitlement to workers' compensation benefits. An agency requested clarification of the proposed provision in paragraph (f)(3) since some agency reviewers incorrectly interpreted the language to require payment of annual premium pay during periods of leave without pay. It recommended that paragraph be reorganized to distinguish between ''authorization'' of premium pay (which has an impact on retirement benefit computations, but no pay implications) and actual payment of premium pay.

While this matter was explained in the supplementary information section of the notice of proposed regulations, we agree that the regulatory text should be further clarified. We have made appropriate changes in these final regulations.

Section 551.423(a) and Section 410.402(d)

We received questions regarding how to reconcile apparent inconsistencies between § 551.423(a)(2) and § 410.402(d). In the proposed regulations, we had modified § 551.423(a)(2) by adding a cross reference to § 410.402(d). We agree that the two sections appear to be inconsistent with respect to the relationship between performance improvement and creditability of training hours as hours of work. Section 410.402(d) requires that, for training hours outside regular working hours to be considered hours of work, the training in question must be intended to improve an employee's performance up to the fully successful level or to help the employee to perform newly assigned duties. In contrast, § 551.423 uses less limiting language, saying that the training is intended to improve the employee's performance in his or her current position.

To address this inconsistency, we are removing the specific rules in § 410.402(d) and replacing them with a cross reference to § 551.423 and a

sentence clarifying that the part 410 prohibitions on premium pay during training do not apply to FLSA overtime pay. In addition, we are revising the definition of *directed to participate* in § 551.423(b)(1) to clarify that the fact that an agency pays for all or part of the expenses of training is not a basis for deciding whether the training was directed. In many cases, an agency may fund training that is requested by the employee on his or her own initiative. If the training is voluntary, as opposed to being required by the agency, the employee may not be credited with overtime hours of work for time spent in that training.

Section 551.501(a)(5)

An agency commented that the supplementary information section of the proposed regulations included an incorrect citation in the description of the proposed revision of § 551.501(a)(5). Specifically, the referenced title 4 is in the D.C. Code, not the United States Code.

We agree that the citation was incorrect. The pay provisions for Secret Service Uniformed Division and Park Police officers are contained in title 4 of the D.C. Code. (There was no error in the regulatory text.)

Section 551.512

An individual commented that the language describing the ''boosted hour method'' in proposed § 551.512(d)(3) was confusing.

We agree. When we reviewed the proposed new paragraph (d) in § 551.512, we realized that the instructions on computing Fair Labor Standards Act (FLSA) overtime pay in cases involving nondiscretionary bonuses were flawed. In these final rules, we provide clarification by addressing the distribution of a group bonus separately from the computation of overtime pay in an individual bonus situation. We are providing the rules for computing FLSA overtime pay in cases involving nondiscretionary bonuses in a separate, new section, § 551.514. Paragraph (b) of that section covers individual computation methods, while paragraph (c) covers the distribution of a group bonus. We revised the provisions generally to use more precise language. In addition, for individual bonus situations, we have added a bonus hourly rate method in § 551.514(a)(2), which is based on a method found in the Department of Labor's FLSA regulations. (See 29 CFR 778.209.)

As part of our efforts to clarify the treatment of bonuses under the FLSA overtime regulations, we have made one other conforming change. We are amending § 551.511(b)(3) to reference the term ''discretionary cash awards or bonuses.'' (In § 551.514, we refer to § 551.511(b)(3) to contrast nondiscretionary bonuses to discretionary bonuses.)

Severance Pay

Section 550.703—Immediate Annuity

A union commented regarding the proposal to revise the definition of immediate annuity to clarify that it includes any voluntarily postponed annuity (such as a Minimum Retirement Age (MRA) plus 10 years (MRA + 10) postponed annuity under the Federal Employees Retirement System (FERS)). The union recommended that an annuity entitlement should bar severance pay only if the employee is actually beginning to receive annuity payments within 1 month after separation.

The current definition of *immediate annuity* in § 550.703 already provides that a postponed MRA+10 FERS annuity under § 842.204 is considered an immediate annuity. This rule is based on the law, which requires that severance pay be barred to any individual who has ''fulfilled the requirements for immediate annuity.'' The proposed revision makes clear that the term *immediate annuity* for severance pay purposes also encompasses any deferred annuity (*i.e.,* an annuity where eligibility is reached after separation) that begins to accrue within 1 month after separation, including such a deferred MRA+10 annuity under § 842.212(b) whose commencing date is postponed. (Paragraph (a) of the current definition already encompasses deferred annuities that begin accruing within 1 month after separation. However, paragraph (b), which deals with MRA+10 annuities with postponed commencing dates, specifically references only non-deferred MRA+10 annuities. Thus, clarification is needed.) Accordingly, we have decided to go forward with the proposed revision of the definition of *immediate annuity* in these final regulations.

Section 550.703—Nonqualifying Appointment

An individual pointed out that paragraph (f)(5) in the definition of *nonqualifying appointment* referenced an obsolete appointing authority-namely, limited executive assignments under part 305. Accordingly, we are deleting that paragraph and renumbering the succeeding paragraphs.

Section 550.703—Qualifying Appointment

An agency proposed revising the definition of *qualifying appointment* to clarify that the voluntary movement from a qualifying permanent appointment to a time-limited appointment does not adversely affect an otherwise eligible employee's entitlement to severance pay upon expiration of the time-limited appointment.

We do not believe further clarification is needed. The current definitions of *involuntary separation* and *qualifying appointment* both clearly state that a separation resulting from the expiration of a time-limited appointment that took effect within 3 calendar days after a separation from a qualifying permanent appointment is qualifying, without any condition that the first separation be on an involuntary basis. Prior to 1990, OPM regulations did provide that a time-limited appointment could be qualifying only if it followed an involuntary separation from a permanent appointment. However, as the result of a court case, OPM revised the severance pay regulations (*i.e.,* the above-mentioned definitions). The current rules have been in effect since March 1990. (See 54 FR 23215, May 31, 1989, and 55 FR 6591, February 26, 1990, for explanations given in proposed and final rules.)

Section 550.704

An agency requested that § 550.704 (dealing with eligibility for severance pay) be amended to reference the provisions in 5 U.S.C. 5595(h) that prohibit payment of severance pay to certain employees transferring to nonappropriated fund positions.

We already addressed this issue in the proposed regulations in § 550.709(f). We placed the provision in § 550.709 (dealing with the payment of severance pay) because we believe the bar on severance pay during an employee's time in a nonappropriated fund position is more properly viewed as a suspension of payments. Under 5 U.S.C. 5595(h), severance payments may, under certain conditions, be ''resumed'' upon involuntary separation from the nonappropriated fund position.

Section 550.706

An agency requested that we further clarify the rule in § 550.706 regarding when a resignation may be treated as an involuntary separation for severance pay purposes. The agency was concerned about resignations following notice of a proposed removal for (1) failure to accept a directed reassignment

to a new location and (2) medical inability to perform duties. It asked whether a final removal action needed to be issued before such a resignation could be qualifying for severance pay purposes.

The answer is that a final involuntary removal action is not necessary to qualify for severance pay if an employee resigns after receipt of the specific written notice of proposed removal. This is no different from resignation after receipt of a proposed removal as part of a reduction in force. Since we believe that it is clear that the broad language in § 550.706(a)(1) encompasses all specific notices of proposed involuntary separations (as defined in § 550.703), including involuntary separations involving the circumstances cited by the agency, we are making no change in the proposed regulation.

A union opposed the proposed changes in § 550.706, stating that the changes add unnecessary barriers to getting severance pay for employees who resign in the face of a separation and meet the ''substantive requirements.'' We disagree. The proposed changes merely provide a clearer definition of what constitutes a formal, official notice that would trigger entitlement to severance pay, consistent with current OPM policies. By law, severance pay entitlement is based on an involuntary separation. In regulating the law, OPM does allow resignations to be treated as involuntary separations for severance pay purposes if an official notice informs the employee that an involuntary separation will occur. If a notice does not contain the elements (*e.g.,* nature of action, effective date of separation) described in the proposed revision, that shows that the involuntary separation decision has not been finalized. An uncertain separation decision cannot be the basis for severance pay upon resignation, since that would be contrary to the law's requirements. The types of specific notices of involuntary separation that commonly trigger severance pay-e.g., a reduction-in-force separation notice or a notice of separation for failure to accept a geographic reassignment—already routinely include the required elements.

Section 550.709–710

An agency suggested further revising § 550.710 to clarify which agency is responsible for making severance payments when (1) an employee has a qualifying temporary appointment (*i.e.,* appointed within 3 days following a qualifying permanent appointment) and (2) an employee's severance pay resumes following a temporary suspension during one or more nonqualifying temporary appointment.

We agree that clarification in this area would be helpful. The answer is that severance payment responsibility rests with the agency employing the individual at the time of the involuntary separation that triggered the severance pay entitlement. (See 5 U.S.C. 5595(b).) In the case of an employee with a qualifying temporary appointment, the severance pay entitlement is based on the separation from the temporary appointment, not on the separation from the preceding permanent appointment. (See definition of *involuntary separation* in § 550.703.) Accordingly, we are adding language in paragraphs (b) and (c) of § 550.709 to make clear that the agency employing the employee in a qualifying temporary appointment is responsible for making severance payments. We are also adding a sentence in § 550.710 to make clear that, when severance payments resume after a period of suspension during a nonqualifying temporary appointment, severance pay liability continues to rest with the agency originally responsible for the severance payments. In addition, we have corrected several erroneous regulatory citations in the proposed § 550.709(a).

We are also making changes in § 550.709(g) because of recent changes in law. Under section 1104(a) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65, October 5, 1999), the authority of the Department of Defense to pay lump-sum severance payments to certain employees under 5 U.S.C. 5595(i) was extended to cover employees separating through September 30, 2003. The authority had been scheduled to expire on September 30, 1999. In addition, section 3243 added a new paragraph (j) to section 5595, which provides that the Department of Energy may pay severance pay in a lump sum to certain employees whose entitlement derives from the establishment of the National Nuclear Security Administration. We are amending § 550.709(g) to provide a general reference to lump-sum severance payments expressly authorized by law, rather than attempting to include specific references to such laws.

Back Pay

Section 550.803

A union opposed the proposed changes in the definitions of *pay, allowances, and differentials* and *employee*. It specifically objected to the proposed exclusion of retirement investment fund contributions and of post-separation payments (such as lump-sum payments for annual leave, severance payments, and retirement annuity payments). The union stated that no explanation was given for excluding employee and agency contributions to a retirement investment fund and that this would prevent the employee from being made financially whole. The union also stated that OPM provided no rationale or legal support for the exclusion of post-separation payments.

Regarding the exclusion of retirement investment fund contributions, we explained in the supplementary information section of the proposed regulations (63 FR 64883) that the correction of agency errors affecting an employee's Thrift Savings Plan account is subject to specific and independent laws and regulations. (See 5 U.S.C. 8432a and 5 CFR parts 1605 and 1606.) Furthermore, the Comptroller General considered this issue and found that pay, allowances, and differentials under the back pay law do not include earnings on contributions to the Thrift Savings Fund. (See 68 Comp. Gen. 220 (1989).) Therefore, we believe the exclusion of retirement investment fund contributions is necessary and appropriate.

Regarding the exclusion of post-separation benefits, the proposed definition reflects OPM's interpretation of the back pay law. Section 5596(b)(1) of title 5, United States Code, states that the back pay provisions apply to an ''employee of an agency'' who is affected by an unjustified or unwarranted ''personnel action'' resulting in the withdrawal or reduction of ''pay, allowances, or differentials of the employee.'' Also section 5596(b)(1)(A) refers to the ''period for which the personnel action was in effect'' and to the amount the ''employee'' normally would have received during that period. We believe the term ''employee'' clearly refers to an individual currently employed by a Federal agency, consistent with the definition in 5 U.S.C. 2105. (This would include both an individual who was actually employed or who was deemed to be employed based on a retroactive reinstatement.) Furthermore, the terms ''personnel action'' and ''pay, allowances, and differentials'' are commonly used in connection with individuals in an active employment status.

In addition, section 5596(b)(1)(B) states that an employee who is entitled to back pay during a period when an erroneous personnel action was in effect ''is deemed to have performed service for the agency during that period.''

Clearly, Congress would not have included such a requirement if it intended the back pay law to cover benefits to which an employee is entitled after a valid separation from service.

It is true that the existing back pay regulations define the term *employee* to mean an ''employee or former employee of an agency.'' However, OPM understands the reference to a ''former employee'' as merely making clear that an individual separated from Federal service may file a claim for and receive back pay for periods of actual or deemed employment. (Deemed employment refers to periods during which an individual is retroactively placed in an employment status and is deemed to have been performing service as part of a corrective action by an authorized authority—for example, a period during which an erroneous separation was in effect or an individual was erroneously denied reinstatement based on a statutory reemployment right.) We note that the existing regulatory definition of *pay, allowances, and differentials* includes ''monetary and employment benefits'' to which an employee is entitled based on the ''performance of a Federal function,'' which OPM understands to refer to compensation for work by an active employee. In the supplementary information for the final regulations on back pay published in 1981 (46 FR 58271, December 1, 1981), we referred to the definition of *pay, allowances, and differentials* and stated that ''benefits received following retirement are not included because they are not received for the period covered by the corrective action.'' Finally, we point to the former Federal Personnel Manual, which clarified the definition of *employee* as follows:

> ''Employee'' means an employee or former employee of an agency. The back pay law applies to employees or former employees who, *while employed by the Federal Government* [emphasis in original], were affected by an unjustified or unwarranted personnel action that resulted in a loss of pay and to former employees who are improperly denied a statutory reemployment right. [See former Federal Personnel Manual Supplement 990–2, S8–3, page 550–57, April 20, 1984.]

Accordingly, as we proposed, we are clarifying the definitions of *employee* and *pay, allowances, and differentials* consistent with OPM's past practice and policy. The defining of these statutory terms is within OPM's broad regulatory authority in 5 U.S.C. 5596. We note that this does not mean an individual is not entitled to corrective payments if it is found that he or she was paid less than the amount due the individual for severance pay, for a lump-sum payment for annual leave, or for retirement benefits. Under the law governing the payment in question, the individual is entitled to be paid correctly, if a timely claim is filed. However, the provisions of section 5596, including that section's interest provisions, are not applicable in such cases.

Appendix A

An agency suggested that, in appendix A to subpart H of part 550, we clarify the definition of *basic pay—e.g.,* whether it includes locality pay.

We did not intend that appendix A contain a restatement of all the rules governing the various deductions that might apply to a back pay award. While the deduction table in appendix A uses the term *basic pay* in reference to retirement and life insurance deductions, it is expected that readers would understand that they must use the normal definition of that term as set forth in the applicable retirement and life insurance laws and regulations. For example, locality pay is included under those definitions. The second sentence of appendix A already states: ''To compute these deductions, an agency must determine the appropriate base or follow other rules.'' We have revised this sentence by adding the words ''consistent with applicable law.''

Commuting Area

Sections 550.703, 575.103, and 575.203

A union objected to the proposed revision of the definition of *commuting area* in various regulatory parts dealing with severance pay, recruitment bonuses, and relocation bonuses. The union stated four objections, which we will review and respond to in the following paragraphs.

First, the union stated that the proposed regulation would remove existing language referring to the commuting area as the area that ''normally is considered one area for employment purposes.'' The union believes this language is helpful in establishing that a commuting area should be based on ''normal objective expectations'' or ''common general understandings,'' not defined arbitrarily.

We agree that agencies should take into account common general expectations and understandings of what a normal commuting trip is for the particular work site in question, and we will revise the proposed definition to include language stating that an agency must define a commuting area based on the generally held expectations of the local community. However, we believe it does not make sense to use a single commuting area for a metropolitan area that includes multiple Federal work sites that can be at opposite ends of the metropolitan area. For example, both Leesburg, Virginia, and Columbia, Maryland, could be considered to be within the Washington, DC, commuting area. An individual could live in Baltimore and work in Columbia and have a reasonable commuting trip. However, if the work site were changed to Leesburg, an agency could appropriately find that Baltimore is outside the normal commuting area for the Leesburg work site. This example shows that it is essential to base commuting areas on the specific work site in question and to consider the location of the employee's residence relative to that work site. We note that the term ''employee's commuting area'' is used in the definition of *reasonable offer* in the existing severance pay regulations, showing that the location of the individual employee's residence is intended to be a consideration.

Second, the union stated that the proposed regulation gives agencies sole and unfettered discretion in establishing the commuting area. The union stated that the definition of the commuting area should be reached in negotiation with the affected employees' exclusive representatives.

Under existing regulations, it is the employing agency that must make a determination regarding the boundaries of the commuting area in order to apply the applicable law and regulations. The proposed regulation merely makes this responsibility clear. The proposed regulation does not give agencies unlimited discretion in establishing the commuting area. These decisions may not be made on an arbitrary or capricious basis. We note that the proposed regulation requires that the commuting area be an area surrounding the work site that ''encompasses the localities where people live and reasonably can be expected to travel back and forth daily.'' As previously stated, we will add language referencing the need to base decisions about commuting areas on the generally held expectations of people in the local community to emphasize that the interpretation of what is reasonable should be consistent with those expectations. The proposed language does not limit the normal application of the laws governing employees' bargaining rights.

Third, the union stated that the proposed regulation added a ''subjective'' element by using the ''significantly more burdensome'' standard in judging whether an employee who lives outside the

standard commuting area for a new work site should be considered to live within or outside the commuting area for the purpose of the benefit in question. It pointed out that the proposed regulation is based on the employee's current commuting trip, even if the current residence happens to be only a temporary one.

It is necessary to take into account where an employee lives relative to a new work site to ensure equitable treatment of employees. For example, an employee may work in Washington, DC, but choose to live in and commute from Fredericksburg, Virginia, which would be outside the normal commuting area for a work site in DC. If the agency changed the employee's duty station from Washington, DC, to Fredericksburg, it would not be reasonable to award a benefit like severance pay based on a finding that the employee's new work site is outside the commuting area for the old work site. In this example, the employee is closer to the new work site than the old work site and would not be compelled to move in order to accept the job at the new work site. Under a different but less common scenario, an employee may live outside the standard commuting area for a new work site but still be as close or closer in terms of commuting time and distance to the new work site than to the old work site. If a commuting trip is not significantly more burdensome than before the duty station change, we believe the employee should not be considered to be outside the commuting area for the new work site. We agree with the union's point that these decisions should not be based on an employee's temporary residence. We are adding language to address this. We note that reasoned judgment will have to be applied by the authorized agency official in determining whether or not a residence is truly temporary.

Fourth, the union objected to the criterion relating to whether an employee would be compelled to change his or her place of residence because of a change in duty station. It stated that this is too high a standard. The union was concerned that an agency may argue that a 2-hour commute each way does not compel an employee to move. It was also concerned about the vagueness of the term ''other relevant factors'' and the lack of specific mention of factors such as traffic patterns, location of a child's school or day care, and location of medical facilities.

The proposed compelled-to-move rule is not a new rule, but is based on longstanding policy. OPM and its predecessor, the Civil Service Commission, have long used this rule to ensure that severance pay is not awarded in cases where duty station changes did not actually compel an employee to move. (For example, see Comptroller General decisions B–182300 (January 16, 1975, and December 4, 1975) and B–2105424 (June 6, 1983), in which the compelled-to-move criterion was used in adjudicating severance pay claims.)

A similar rule is used under the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS) for employees filing for discontinued service retirement (i.e., early retirement based on involuntary separation). An employee's separation is considered involuntary for discontinued service retirement purposes if he or she refuses to accept a directed reassignment outside the commuting area. Under the retirement rules, it must be determined that complying with the duty station change would ''compel the employee to change his or her residence in order to continue employment.'' (See CSRS and FERS Handbook for Personnel and Payroll Offices, chapter 44, sections 44A2.1–3 and 44B1.1–1C.)

We acknowledge that reasoned judgment is necessary to apply this rule. Since a variety of interrelating factors may come into play in deciding whether an employee would be compelled to move depending on the specific area and the specific employee, it is not possible to prescribe a precise, works-in-every-situation rule. The ''other relevant factors'' language is necessary to allow the agency official to consider all possibly relevant factors, including the factors cited by the union and others that may work to the employee's benefit. Any review of an agency official's decision regarding the compelled-to-move issue will certainly be based on whether it is consistent with what a reasonable person would conclude. We expect that agencies will apply this rule in a fair and equitable way.

In summary, we are proceeding with the proposed change in the definition of *commuting area* as used in the regulations for severance pay, recruitment bonuses, and relocation bonuses; however, we have made some modifications in the proposed language to provide clarification and to respond to comments.

Changes Related to New Firefighter Regulations

On November 23, 1998, we published interim regulations to implement statutory changes affecting the pay of Federal firefighters. (See 63 FR 64589.) Some of those interim regulations affected the proposed regulations that are being made final through this notice. We are making appropriate changes consistent with the interim firefighter pay regulations.

The proposed regulations added a new paragraph (g) to § 550.111; however, the interim firefighter pay regulations added a different paragraph (g) and a subsequent regulation added a paragraph (h) (64 FR 4520, January 29, 1999). Therefore, we are redesignating the proposed paragraph (g) as paragraph (i).

The proposed regulations revised § 550.707(b), but did not include a provision related to computing severance pay for firefighters with variable workweeks. The interim firefighter regulations included a change to address such firefighters in § 550.707(b)(4). We are revising the proposed § 550.707(b) to incorporate the firefighter provision.

The proposed regulations included changes in §§ 550.112(m) and 551.432, which deal with when sleep time is considered hours of work for overtime purposes. These sections of the proposed regulations do not address firefighters paid under the new firefighter pay computation method established by 5 U.S.C. 5545b. Our position is that, for firefighters compensated under 5 U.S.C. 5545b, all official duty hours, including all sleep hours during official duty hours, are compensable hours for all pay purposes. The 2756-hour factor used in computing firefighter hourly rates under 5 U.S.C. 5545b already takes into account the existence of compensable sleep hours. We are revising §§ 550.112(m) and 551.432 accordingly.

The proposed regulations revised § 551.501(a)(5), but did not include a reference to firefighters paid under 5 U.S.C. 5545b, as reflected in the interim firefighter pay regulations. We are revising § 551.501(a)(5) to incorporate that reference.

Other Changes

We are making some additional technical changes not included in the proposed regulations. These changes involve correction of obvious errors.

In § 550.1104(c)(2), we are inserting the word ''contesting,'' which was inadvertently left out when revisions were recently made in the salary offset regulations in subpart K of part 550. (See 63 FR 72100, December 31, 1998, and compare to 5 U.S.C. 5514(a)(3).)

In § 550.1104(d)(2), we are correcting a typographical error. (The word ''account'' was misspelled as ''accont.'')

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Parts 410, 530, 531, 536, 550, 551, 575, 591, and 610

Administrative practice and procedure, Claims, Education, Freedom of information, Government employees, Holidays, Law enforcement officers, Reporting and recordkeeping requirements, Travel and transportation expenses, Wages.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending parts 410, 530, 531, 536, 550, 551, 575, 591, and 610 of title 5 of the Code of Federal Regulations as follows:

PART 410—TRAINING

1. The authority citation for part 410 continues to read as follows:

Authority: 5 U.S.C. 4101, *et seq.*; E.O. 11348, 3 CFR, 1967 Comp., p. 275.

Subpart D—Paying for Training Expenses

2. In § 410.402, paragraph (d) is revised to read as follows:

§ 410.402 Paying premium pay.

* * * * *

(d) Regulations governing overtime pay for employees covered by Fair Labor Standards Act (FLSA) during training, education, lectures, or conferences are found in § 551.423 of this chapter. The prohibitions on paying premium pay found in paragraph (a) of this section are not applicable for the purpose of paying FLSA overtime pay.

* * * * *

PART 530—PAY RATES AND SYSTEMS (GENERAL)

3. The authority citation for part 530 continues to read as follows:

Authority: 5 U.S.C. 5305 and 5307; E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316;

Subpart B also issued under secs. 302(c) and 404(c) of the Federal Employees Pay Comparability Act of 1990 (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively;

Subpart C also issued under sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981.

Subpart B—Aggregate Limitation on Pay

4. In § 530.202, the definition of *estimated aggregate compensation* is amended by removing the words ''is entitled'' and adding in their place the words ''is or is projected to be entitled'', and the definition of *discretionary payment* is revised to read as follows:

§ 530.202 Definitions.

* * * * *

Discretionary payment means a payment that an agency has discretion to pay or not to pay to an employee, including a retention allowance but excluding any other payment that is preauthorized to be paid to an employee at a regular fixed rate each pay period.

* * * * *

5. In § 530.203, paragraph (c) is amended by removing the word ''proved'' and adding in its place the word ''provided'', and a new paragraph (f) is added to read as follows:

§ 530.203 Administration of aggregate limitation on pay.

* * * * *

(f) If an agency makes an incorrect estimate of aggregate compensation at an earlier date in the calendar year, the sum of an employee's remaining payments of basic pay (which may not be deferred) may exceed the difference between the aggregate compensation the employee has actually received to date in that calendar year and the rate for level I of the Executive Schedule. In this case, the employee will become indebted to the Federal Government for any amount paid in excess of the level I aggregate limitation. To the extent that the excess amount is attributable to amounts that should have been deferred and would have been payable at the beginning of the next calendar year, the debt will be extinguished on January 1 of the next calendar year. As part of the correction of the error, the excess amount will be deemed to have been paid on January 1 of the next calendar year (when the debt was extinguished) as if it were a deferred excess payment as described in § 530.204 and must be considered part of the employee's aggregate compensation for the new calendar year.

Subpart C—Special Salary Rate Schedules for Recruitment and Retention

6. In § 530.303, paragraphs (d) and (i) are revised to read as follows:

§ 530.303 Establishing and adjusting special salary rate schedules.

* * * * *

(d) All requests to establish or adjust special salary rate schedules must be transmitted directly to OPM's central office by the agency's headquarters. Each request must include a certification by the head of the agency (or another official designated to act on behalf of the head of the agency with respect to the given schedule) that the requested special salary rates are considered necessary to ensure staffing adequate to the accomplishment of the agency's mission.

* * * * *

(i) The determination as to whether an employee is covered by a special salary rate schedule must be based on the employee's position of record and the official duty station for that position. For the purpose of this subpart, the employee's position of record and corresponding official duty station are the position and station documented on the employee's most recent notification of personnel action, excluding a notification associated with a new assignment that is followed immediately (*i.e.*, within 3 workdays) by a reduction in force resulting in the employee's separation before he or she is required to report for duty at the new location. For an employee who is authorized to receive relocation allowances under 5 U.S.C. 5737 in connection with an extended assignment, the position and duty station associated with that assignment are the employee's position of record and official duty station.

PART 531—PAY UNDER THE GENERAL SCHEDULE

7. 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.

Subpart B—Determining Rate of Basic Pay

8. In § 531.203:

A. Paragraph (d)(3) is amended by removing ''5303'' and adding in its place ''5305'', by removing ''§ 532.231'' and adding in its place ''part 532'', by adding ''(other than section 403 of FEPCA)'' after ''other legal authority'' and by removing ''(d)(2)(vi)'' and adding in its place ''(d)(2)(vii)'';

B. Paragraph (c)(1)(ii) is amended by adding a new sentence at the end of the paragraph;

C. The introductory text of paragraph (d)(2)(vii) is revised; and

D. Paragraph (f) is revised.

The addition and revisions read as follows:

§ 531.203 General provisions.

* * * * *

(c) * * *

(1) * * *

(ii) * * * If the employee's highest previous rate was greater than the maximum rate for the grade in which pay is being fixed, the maximum rate of basic pay that may be paid to the employee is the maximum rate for that grade.

* * * * *

(d) * * *

(2) * * *

(vii) A special rate established under 5 U.S.C. 5305 and part 530 of this chapter, part 532 of this chapter, or other legal authority (other than section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509, 104 Stat. 1465), unless, in a reassignment to another position in the same agency—

* * * * *

(f) *Simultaneous actions.* (1) General pay adjustments must be processed before any individual pay action that takes effect at the same time. General pay adjustments include annual adjustments under 5 U.S.C. 5303, adjustments in locality rates of pay under subpart F of this part, adjustments in special law enforcement adjusted rates of pay under subpart C of this part, adjustments in special salary rates under 5 U.S.C. 5305 or similar provision of law (including section 403 of FEPCA), increases in retained rates under part 536 of this chapter, and increases in continued rates under subparts C and G of this part.

(2) Pay adjustments (other than general pay adjustments) that take effect at the same time must be processed in the order that gives the employee the maximum benefit. When a position or appointment change and entitlement to a higher rate of pay occur at the same time, the higher rate of pay is deemed to be the employee's existing rate of basic pay.

* * * * *

9. In § 531.204, paragraph (a)(2) is revised to read as follows:

§ 531.204 Special provisions.

(a) * * *

(2) For the purpose of section 5334(b) of title 5, United States Code, an employee's ''existing rate of basic pay'' includes any applicable special rate established under section 5305 of title 5, United States Code, or law enforcement special rate established under section 403 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509, 104 Stat. 1465).

* * * * *

Subpart C—Special Pay Adjustments for Law Enforcement Officers

10. In § 531.301, the definition of *official duty station* is revised to read as follows:

§ 531.301 Definitions.

* * * * *

Official duty station means the duty station for an employee's position of record as indicated on his or her most recent notification of personnel action, excluding a new duty station for an assignment that is followed immediately (*i.e.*, within 3 workdays) by a reduction in force resulting in the employee's separation before he or she is required to report for duty at the new location. For an employee who is authorized to receive relocation allowances under 5 U.S.C. 5737 in connection with an extended assignment, the temporary duty station associated with that assignment is the employee's official duty station.

* * * * *

11. In § 531.304:

A. Paragraph (b)(4) is amended by removing the word ''and';

B. Paragraph (b)(5) is amended by removing the period at the end of the paragraph and adding a semicolon and the word ''and'' in its place; and

C. A new paragraph (b)(6) is added.

The addition reads as follows:

§ 531.304 Administration of special law enforcement adjusted rates of pay.

* * * * *

(b) * * *

(6) Basic pay that a career appointee in the Senior Executive Service elects to continue while serving under certain Presidential appointments, as provided by 5 U.S.C. 3392(c)(1) and § 317.801 of this chapter.

* * * * *

Subpart D—Within-Grade Increases

12. In § 531.407, paragraph (d) is revised to read as follows:

§ 531.407 Equivalent increase determinations.

* * * * *

(d) *Merit increases.* For the purpose of applying section 5335 of title 5, United States Code, and this subpart, all or any portion of a merit increase, or a zero merit increase, authorized under former section 5404 of title 5, United States Code (which was repealed as of November 1, 1993, by Public Law 103–89), is an equivalent increase.

Subpart F—Locality-Based Comparability Payments

13. In § 531.602, paragraph (1) of the definition of *employee* and the definition of *official duty station* are revised to read as follows:

§ 531.602 Definitions.

* * * * *

Employee means—

(1) An employee in a position to which subchapter III of chapter 53 of title 5, United States Code, applies and whose official duty station is located in a locality pay area within the continental United States, including a GM employee (as defined in § 531.202); and

* * * * *

Official duty station means the duty station for an employee's position of record as indicated on his or her most recent notification of personnel action, excluding a new duty station for an assignment that is followed immediately (*i.e.*, within 3 workdays) by a reduction in force resulting in the employee's separation before he or she is required to report for duty at the new location. For an employee who is authorized to receive relocation allowances under 5 U.S.C. 5737 in connection with an extended assignment, the temporary duty station associated with that assignment is the employee's official duty station.

* * * * *

14. In § 531.606

A. Paragraph (b)(4) is amended by removing the word ''and';

B. Paragraph (b)(5) is amended by removing the period at the end of the paragraph and adding a semicolon and the word ''and'' in its place; and

C. A new paragraph (b)(6) is added.

The addition to read as follows:

§ 531.606 Administration of locality rates of pay.

* * * * *

(b) * * *

(6) Basic pay that a career appointee in the Senior Executive Service elects to continue while serving under certain Presidential appointments, as provided

by 5 U.S.C. 3392(c)(1) and § 317.801 of this chapter.

* * * * *

PART 536—GRADE AND PAY RETENTION

15. The authority citation for part 536 continues to read as follows:

Authority: 5 U.S.C. 5361–5366; sec. 7202(f) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), 104 Stat. 1338–336; sec. 4 of the Performance Management and Recognition System Termination Act of 1993 (Pub. L. 103–89), 107 Stat. 981; § 536.307 also issued under 5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502.

Subpart A—Definitions; Coverage and Applicability

16. In § 536.102, the definition of *rate of basic pay* is amended by removing the words ''or any kind'' and adding in their place the words ''of any kind'', and the definition of *demotion at the employee's request* is revised to read as follows:

§ 536.102 Definitions.

* * * * *

Demotion at an employee's request means a reduction in grade that is initiated by the employee for his or her benefit, convenience, or personal advantage. A demotion that is caused or influenced by a management action is not considered to be at an employee's request, except that a voluntary demotion in response to a management action directly related to personal cause is considered to be at the employee's request.

* * * * *

Subpart B—Determination of Retained Grade and Rate of Basic Pay; Loss of, or Termination of Eligibility

§ 536.203 [Amended]

17. In § 536.203, paragraph (b) is amended by removing the misspelled word ''immediatley'' and adding in its place ''immediately'.

18. In § 536.205, paragraph (a)(2) is amended by removing the reference to ''531.204(d)(4)'' and adding in its place ''531.204(e)(4)'', and a new paragraph (b)(4) is added to read as follows:

§ 536.205 Determination of rate of basic pay.

* * * * *

(b) * * *

(4) If an employee moves to another position at the same grade while entitled to pay retention, the employee's rate of basic pay after movement may not be less than the maximum rate of basic pay for the newly applicable rate range.

* * * * *

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

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

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

20. In § 550.101

A. Paragraph (a)(2) is revised;

B. The introductory text of paragraph (d) is amended by adding ''Sunday,'' after ''night,';

C. Paragraphs (d)(3) and (d)(7) are removed;

D. Paragraphs (d)(4) through (d)(6) are redesignated as (d)(3) through (d)(5), respectively;

E. Paragraphs (d)(8) and (d)(9) are redesignated as (d)(6) and (d)(7), respectively; and

F. Paragraph (d)(1) is revised.

The revisions read as follows:

§ 550.101 Coverage and exemptions.

(a) * * *

(2) The sections in this subpart incorporating special provisions for certain types of work (§§ 550.141 through 550.164, inclusive) apply also to each employee of the judicial branch or the legislative branch who is subject to subchapter V of chapter 55 of title 5, United States Code.

* * * * *

(d) * * *

(1) February 13, 1911, as amended (36 Stat. 899, as amended; 19 U.S.C. 261, 267), involving customs inspectors and canine enforcement officers;

* * * * *

21. Section 550.102 is revised to read as follows:

§ 550.102 Entitlement.

A department (and for the purpose of §§ 550.141 through 550.164, inclusive, a legislative or judicial branch agency) must determine an employee's entitlement to premium pay consistent with subchapter V of chapter 55 of title 5, United States Code.

22. In § 550.103, the definition of *day* is added in alphabetical order, and the definitions of *administrative workweek, agency, law enforcement officer,* and *premium pay are* revised to read as follows:

§ 550.103 Definitions.

* * * * *

Administrative workweek means any period of 7 consecutive days (as defined in this section) designated in advance by the head of the agency under section 6101 of title 5, United States Code.

Agency means—

(1) A *department* as defined in this section; and

(2) A legislative or judicial branch agency which has positions that are subject to subchapter V of chapter 55 of title 5, United States Code.

* * * * *

Day (for overtime pay purposes) means any 24-hour period designated by an agency within the administrative workweek applicable to the employee. A day need not correspond to the 24-hour period of a calendar day. If the agency has not designated another period of time, a day is a calendar day.

* * * * *

Law enforcement officer means an employee who—

(1) Is a law enforcement officer within the meaning of 5 U.S.C. 8331(20) (as further defined in § 831.902 of this chapter) or 5 U.S.C. 8401(17) (as further defined in § 842.802 of this chapter), as applicable;

(2) In the case of an employee who holds a secondary position, as defined in § 831.902 of this chapter, and is subject to the Civil Service Retirement System, but who does not qualify to be considered a law enforcement officer within the meaning of 5 U.S.C. 8331(20), would so qualify if such employee had transferred directly to such position after serving as a law enforcement officer within the meaning of such section;

(3) In the case of an employee who holds a secondary position, as defined in § 842.802 of this chapter, and is subject to the Federal Employees Retirement System, but who does not qualify to be considered a law enforcement officer within the meaning of 5 U.S.C. 8401(17), would so qualify if such employee had transferred directly to such position after performing duties described in 5 U.S.C. 8401(17)(A) and (B) for at least 3 years; and

(4) In the case of an employee who is not subject to either the Civil Service Retirement System or the Federal Employees Retirement System—

(i) Holds a position that the agency head (as defined in §§ 831.902 and 842.802 of this chapter) determines would satisfy paragraph (1), (2), or (3) of this definition if the employee were subject to the Civil Service Retirement System or the Federal Employees Retirement System (subject to OPM oversight as described in §§ 831.911 and 842.808 of this chapter); or

(ii) Is a special agent in the Diplomatic Security Service.

* * * * *

Premium pay means the dollar value of earned hours of compensatory time off and additional pay authorized by subchapter V of chapter 55 of title 5, United States Code, and this subpart for overtime, night, Sunday, or holiday work; or for standby duty, administratively uncontrollable overtime work, or availability duty. This excludes overtime pay paid to employees under the Fair Labor Standards Act and compensatory time off earned in lieu of such overtime pay.

* * * * *

§ 550.107 [Amended]

23. In § 550.107, the introductory text is amended by removing ''any period'' and adding in its place ''any pay period''.

24. In § 550.111, a new paragraph (i) is added to read as follows:

§ 550.111 Authorization of overtime pay.

* * * * *

(i) An employee is not entitled to overtime pay under this subpart for time spent in training, except as provided in § 410.402 of this chapter.

25. In § 550.112, paragraphs (k), (l), and (m) are added to read as follows:

§ 550.112 Computation of overtime work.

* * * * *

(k) *Standby duty.* (1) An employee is on duty, and time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official order to a designated post of duty and is assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes. A finding that an employee's activities are substantially limited may not be based on the fact that an employee is subject to restrictions necessary to ensure that the employee will be able to perform his or her duties and responsibilities, such as restrictions on alcohol consumption or use of certain medications.

(2) An employee is not considered restricted for ''work-related reasons'' if, for example, the employee remains at the post of duty voluntarily, or if the restriction is a natural result of geographic isolation or the fact that the employee resides on the agency's premises. For example, in the case of an employee assigned to work in a remote wildland area or on a ship, the fact that the employee has limited mobility when relieved from duty would not be a basis for finding that the employee is restricted for work-related reasons.

(l) *On-call status.* An employee is off duty, and time spent in an on-call status is not hours of work if—

(1) The employee is allowed to leave a telephone number or carry an electronic device for the purpose of being contacted, even though the employee is required to remain within a reasonable call-back radius; or

(2) The employee is allowed to make arrangements for another person to perform any work that may arise during the on-call period.

(m) *Sleep and meal time.* (1) Bona fide sleep and meal periods may not be considered hours of work, except as provided in paragraphs (m)(2), (m)(3), and (m)(4) of this section. If a sleep or meal period is interrupted by a call to duty, the time spent on duty is hours of work.

(2) Sleep and meal periods during regularly scheduled tours of duty are hours of work for employees who receive annual premium pay for regularly scheduled standby duty under 5 U.S.C. 5545(c)(1).

(3) When employees are assigned to work shifts of 24 hours or more during which they must remain within the confines of their duty station in a standby status, and for which they do not receive annual premium pay for regularly scheduled standby duty under 5 U.S.C. 5545(c)(1), the amount of bona fide sleep and meal time excluded from hours of work may not exceed 8 hours in any 24-hour period. No sleep time may be excluded unless the employee had the opportunity to have an uninterrupted period of at least 5 hours of sleep during the applicable sleep period. For work shifts of less than 24 hours, agencies may not exclude on-duty sleep periods from hours of work, but must exclude bona fide meal periods during which the employee is completely relieved from duty.

(4) For firefighters compensated under 5 U.S.C. 5545b, on-duty sleep and meal time may not be excluded from hours of work.

26. In § 550.114, a new paragraph (e) is added to read as follows:

§ 550.114 Compensatory time off.

* * * * *

(e) The dollar value of compensatory time off when it is liquidated, or for the purpose of applying pay limitations, is the amount of overtime pay the employee otherwise would have received for the hours of the pay period during which compensatory time off was earned by performing overtime work.

27. In § 550.121, a new paragraph (c) is added to read as follows:

§ 550.121 Authorization of night pay differential.

* * * * *

(c) An employee is not entitled to night pay differential while engaged in training, except as provided in § 410.402 of this chapter.

28. In § 550.131, a new paragraph (d) is added to read as follows:

§ 550.131 Authorization of pay for holiday work.

* * * * *

(d) An employee is not entitled to holiday premium pay while engaged in training, except as provided in § 410.402 of this chapter.

§ 550.153 [Amended]

29. In § 550.153, paragraph (d)(1) is amended by removing ''§ 550.112(f)'' and adding in its place ''§ 550.112(h)''.

30. In § 550.162, a new paragraph (f) is added to read as follows:

§ 550.162 Payment provisions.

* * * * *

(f) Unless an agency discontinues authorization of premium pay under § 550.141 or § 550.151 for all similar positions, it may not discontinue authorization of such premium pay for an individual employee's position—

(1) During a period of paid leave elected by the employee and approved by the agency in lieu of benefits under the Federal Employees' Compensation Act, as amended (5 U.S.C. 8101 *et seq.*), following a job-related injury;

(2) During a period of continuation of pay under the Federal Employees' Compensation Act, as amended (5 U.S.C. 8101 *et seq.*);

(3) During a period of leave without pay, if the employee is in receipt of benefits under the Federal Employees' Compensation Act, as amended (5 U.S.C. 8101 *et seq.*). (Note: No premium pay is payable during leave without pay; however, the continued authorization may prevent a reduction in an employee's retirement benefits if the leave without pay period occurs during the employee's high-3 average salary period.)

31. In § 550.171, the existing text is designated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 550.171 Authorization of pay for Sunday work.

* * * * *

(b) An employee is not entitled to Sunday premium pay while engaged in training, except as provided in § 410.402 of this chapter.

Subpart B—Advances in Pay

32. The authority citation for subpart B of part 550 continues to read as follows:

Authority: 5 U.S.C. 5524a, 5545a(h)(2)(B); sections 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (Public Law 101–509), 104 Stat. 1462 and 1466, respectively; E.O. 12748, 3 CFR, 1992 Comp., p. 316.

33. In § 550.202, paragraph (c) of the definition of *newly appointed* is revised to read as follows:

§ 550.202 Definitions.

* * * * *

Newly appointed * * *

(c) A permanent appointment in the competitive service following termination of employment under the Student Educational Employment Program (as described in § 213.3202 of this chapter), provided such employee—

(1) Was separated from the service, in a nonpay status, or a combination of both during the entire 90-day period immediately before the permanent appointment; and

(2) Has fully repaid any former advance in pay under § 550.205.

* * * * *

§ 550.205 [Amended]

34. In § 550.205, paragraph (b) is amended by removing the word ''recover'' and adding in its place the word ''recovery''.

Subpart C—Allotments and Assignments From Federal Employees

35. The authority citation for subpart C of part 550 continues to read as follows:

Authority: 5 U.S.C. 5527, E.O. 10982, 3 CFR 1959–1963 Comp., p. 502.

§ 550.311 [Amended]

36. In § 550.311, paragraph (b) is amended by removing ''paragraph (b)'' and adding in its place ''paragraph (a)''.

37. In § 550.312, paragraphs (a), (c), (d), and (e) are revised to read as follows:

§ 550.312 General limitations.

(a) The allotter must specifically designate the allottee and the amount of the allotment.

* * * * *

(c) The allotter must personally authorize a change or cancellation of an allotment.

(d) The agency has no liability in connection with any authorized allotment disbursed by the agency in accordance with the allotter's request.

(e) Any disputes regarding any authorized allotment are a matter between the allotter and the allottee.

38. Section 550.341 is revised to read as follows:

§ 550.341 Scope.

An agency must permit an employee to make an allotment for charitable contributions to a Combined Federal Campaign in accordance with § 950.901 of this chapter.

§ 550.342 [Removed]

39. Section 550.342 is removed.

Subpart G—Severance Pay

40. The authority citation for subpart G of part 550 continues to read as follows:

Authority: 5 U.S.C. 5595; E.O. 11257, 3 CFR, 1964–1965 Comp., p. 357.

41. In § 550.703:

A. The definition of *involuntary separation* is amended by removing the words ''the commuting area'' in both places and adding in each place the words ''his or her commuting area'';

B. A new definition of *employed by the Government of the United States* is added in alphabetical order; the definitions of *commuting area, employee, immediate annuity,* and *nonqualifying appointment* are revised;

C. Paragraph (g) of the definition of *qualifying appointment* is revised; and

D. paragraph (c)(3) of the definition of *reasonable offer* is revised.

The addition and revisions read as follows:

§ 550.703 Definitions.

* * * * *

Commuting area means the geographic area surrounding a work site that encompasses the localities where people live and reasonably can be expected to travel back and forth daily to work, as established by the employing agency based on the generally held expectations of the local community. When an employee's residence is within the standard commuting area for a work site, the work site is within the employee's commuting area. When an employee's residence is outside the standard commuting area for a proposed new work site, the employee's commuting area is deemed to include the expanded area surrounding the employee's residence and including all destinations that can be reached via a commuting trip that is not significantly more burdensome than the current commuting trip. This excludes a commuting trip from a residence where the employee planned to stay only temporarily until he or she could find a more permanent residence closer to his or her work site. For this purpose, a commuting trip to a new work site is considered significantly more burdensome if it would compel the employee to change his or her place of residence in order to continue employment, taking into account commuting time and distance, availability of public transportation, cost, and any other relevant factors.

Employed by the Government of the United States refers to employment by any part of the Government of the United States, including the United States Postal Service and similar independent entities, but excluding enlistment or activation in the armed forces (as defined in 5 U.S.C. 2101).

Employee (for the purpose of establishing initial entitlement to severance pay upon separation) means an employee as defined in 5 U.S.C. 5595(a)(2), excluding an individual employed by the government of the District of Columbia.

(Note to definition of ''employee'': The term ''individual employed'' in 5 U.S.C. 5595(a)(2)(A) refers to an ''employee'' as defined in 5 U.S.C. 2105.)

Immediate annuity means—

(a) A recurring benefit payable under a retirement system applicable to Federal civilian employees or members of the uniformed services that the individual is eligible to receive (disregarding any offset described in § 550.704(b)(5)) at the time of the involuntary separation from civilian service or that begins to accrue within 1 month after such separation, excluding any Social Security retirement benefit; or

(b) A benefit that meets the conditions in paragraph (a) of this definition, except that the benefit begins to accrue more than 1 month after separation solely because the employee elected a later commencing date (such as allowed under § 842.204 of this chapter).

* * * * *

Nonqualifying appointment means an appointment that does not convey eligibility for severance pay under this subpart, including—

(a) An appointment at a noncovered agency;

(b) An appointment in which the employee has an intermittent work schedule;

(c) A Presidential appointment;

(d) An emergency appointment;

(e) An excepted appointment under Schedule C; a noncareer appointment in the Senior Executive Service, as defined in 5 U.S.C. 3132(a); or an equivalent appointment made for similar purposes; and

(f) A time-limited appointment (except for a time-limited appointment that is qualifying because it is made effective within 3 calendar days after separation from a qualifying appointment), including—

(1) A term appointment;

(2) A temporary appointment pending establishment of a register (TAPER);

(3) An overseas limited appointment with a time limitation;

(4) A limited term or limited emergency appointment in the Senior Executive Service, as defined in 5 U.S.C. 3132(a), or an equivalent appointment made for similar purposes;

(5) A Veterans Readjustment Appointment under part 307 of this chapter; and

(6) A Presidential Management Intern appointment under part 362 of this chapter.

Qualifying appointment * * *

(g) A time-limited appointment (including a series of time-limited appointments by the same agency without any intervening break in service) for full-time employment that takes effect within 3 calendar days after the end of one of the qualifying appointments listed in paragraphs (a) through (f) of this definition, provided the time-limited appointment is not nonqualifying on grounds other than the time-limited nature of the appointment.

* * * * *

Reasonable offer means * * *

(c) * * *

(3) Of equal or greater tenure and with the same work schedule (part-time or full-time); and

* * * * *

42. In § 550.706, paragraph (a) is revised and paragraph (c) is added to read as follows:

§ 550.706 Criteria for meeting the requirement for involuntary separation.

(a) An employee who resigns because he or she expects to be involuntarily separated is considered to have been involuntarily separated if the employee resigns after receiving—

(1) Specific written notice that he or she will be involuntarily separated by a particular action effective on a particular date; or

(2) A general written notice of reduction in force or transfer of functions which—

(i) Is issued by a properly authorized agency official;

(ii) Announces that the agency has decided to abolish, or transfer to another commuting area, all positions in the competitive area (as defined in § 351.402 of this chapter) by a particular date (no more than 1 year after the date of the notice); and

(iii) States that, for all employees in that competitive area, a resignation following receipt of the notice constitutes an involuntary separation for severance pay purposes.

* * * * *

(c) A resignation is not considered an involuntary separation if the specific or general written notice is canceled before the separation (based on that resignation) takes effect.

43. In § 550.707, the section heading is revised; paragraph (b) is revised; and a new paragraph (d) is added to read as follows:

§ 550.707 Computation of severance pay fund.

* * * * *

(b) *Basic severance pay allowance for employees with variable work schedules or rates of basic pay.* In the following circumstances, the weekly rate of basic pay used in computing the basic severance pay allowance must be determined based on the weekly average for the last position held by the employee during the 26 biweekly pay periods immediately preceding separation, as follows:

(1) For positions in which the number of hours in the employee's basic work schedule (excluding overtime hours) varies during the year because of part-time work requirements, compute the weekly average of those hours and multiply that average by the hourly rate of basic pay in effect at separation.

(2) For positions in which the rate of annual premium pay for standby duty regularly varies throughout the year, compute the average standby duty premium pay percentage and multiply that percentage by the weekly rate of basic pay (as defined in § 550.103) in effect at separation.

(3) For prevailing rate positions in which the amount of night shift differential pay under 5 U.S.C. 5343(f) varies from week to week under a regularly recurring cycle of work schedules, determine for each week in the averaging period the value of night shift differential pay expressed as a percentage of each week's scheduled rate of pay (as defined in § 532.401 of this chapter), compute the weekly average percentage, and multiply that percentage by the weekly scheduled rate of pay in effect at separation.

(4) For positions with seasonal work requirements, compute the weekly average of hours in a pay status (excluding overtime hours) and multiply that average by the hourly rate of basic pay in effect at separation.

(5) For positions held by firefighters compensated under subpart M of this part, where the firefighter has a recurring cycle of variable workweeks within his or her regular tour of duty (as defined in § 550.1302), compute the weekly average of hours in the regular tour of duty and determine the weekly rate of basic pay based on the average workweek and the rate of basic pay in effect at separation.

* * * * *

(d) *Lifetime limitation.* The severance pay fund is limited to that amount which would provide 52 weeks of severance pay (taking into account weeks of severance pay previously received, as provided in § 550.712).

44. In § 550.708:

A. Paragraph (a) is revised;

B. Paragraph (c) is amended by removing the word ''and'' at the end of the paragraph;

C. Paragraph (d) is amended by removing the period at the end of the paragraph and adding a semicolon and the word ''and'' in its place; and

D. A new paragraph (e) is added.

The revision and addition read as follows:

§ 550.708 Creditable service.

* * * * *

(a) Civilian service as an employee (as defined in 5 U.S.C. 2105), excluding time during a period of nonpay status that is not creditable for annual leave accrual purposes under 5 U.S.C. 6303(a);

* * * * *

(e) Service performed with the government of the District of Columbia by an individual first employed by that government before October 1, 1987, excluding service as a teacher or librarian of the public schools of the District of Columbia.

45. Section 550.709 is revised to read as follows:

§ 550.709 Accrual and payment of severance pay.

(a) Severance pay accrues on a day-to-day basis following the recipient's separation from Federal employment. If severance pay begins in the middle of a pay period, 1 day of severance pay accrues for each workday or applicable holiday left in the pay period at the same rate at which basic pay would have accrued if the recipient were still employed. Thereafter, accrual is based on days from Monday through Friday, with each day worth one-fifth of 1 week's severance pay. Accrual ceases when the severance pay entitlement is suspended or terminated, as provided in §§ 550.710 and 550.711. If severance pay is suspended during a nonqualifying time-limited appointment as provided in § 550.710, accrual will

resume following separation from that appointment.

(b) Severance payments must be made at the same pay period intervals that salary payments would be made if the recipient were still employed. The amount of the severance payment is computed using the recipient's rate of basic pay in effect immediately before separation, with credit for each day of severance pay accrual during the pay period corresponding to the payment date. A severance payment is subject to appropriate deductions for income and Social Security taxes. Severance payments are the responsibility of the agency employing the recipient at the time of the involuntary separation that triggered the current entitlement to severance pay.

(c) When an individual receives severance pay as the result of an involuntary separation from a qualifying time-limited appointment, the severance payment is based on the rate of basic pay received at the time of that separation. Severance payments are the responsibility of the agency that employed the individual under the qualifying time-limited appointment.

(d) When an individual is in a nonpay status immediately before separation, the amount of the severance payment is determined using the basic pay that he or she would have received if he or she had been in a pay status at the time of separation.

(e) When an individual's severance pay fund is computed under § 550.707(b) using an average rate of basic pay, that average rate is used to determine the amount of the severance payment. Exception: In the case of a seasonal employee, the agency may choose instead to use the employee's rate of basic pay at separation (as computed based on the employee's work schedule during the established seasonal work period) and then authorize severance payments only during that seasonal work period.

(f) In the case of individuals who become employed by a nonappropriated fund instrumentality of the Department of Defense or the Coast Guard under the conditions described in 5 U.S.C. 5595(h)(4), payment of severance pay may be suspended consistent with the rules in 5 U.S.C. 5595(h) and any supplemental regulations issued by the Department of Defense.

(g) Notwithstanding paragraph (b) of this section, an agency may pay severance pay in a single lump sum if expressly authorized by law.

46. Section 550.710 is revised to read as follows:

§ 550.710 Suspension of severance pay.

When an individual entitled to severance pay is employed by the Government of the United States or the government of the District of Columbia under a nonqualifying time-limited appointment, severance pay must be suspended during the life of the appointment. Severance pay resumes, without any recomputation, when the employee separates from the nonqualifying time-limited appointment. The resumed severance payments are the responsibility of the agency that originally triggered the individual's severance pay entitlement by separating the individual while he or she was serving under a qualifying appointment.

47. Section 550.711 is revised to read as follows:

§ 550.711 Termination of severance pay entitlement.

Entitlement to severance pay ends when—

(a) The individual entitled to severance pay is employed by the Government of the United States or the government of the District of Columbia, unless employed under a nonqualifying time-limited appointment as described in § 550.710; or

(b) The severance pay fund is exhausted.

§ 550.713 [Amended]

48. Section 550.713 is amended by removing the second sentence.

Subpart H—Back Pay

49. The authority citation for subpart H of part 550 continues to read as follows:

Authority: 5 U.S.C. 5596(c); Pub. L. 100–202, 101 Stat. 1329.

50. In § 550.803, the definitions of *employee* and *pay, allowances, and differentials* are revised to read as follows:

§ 550.803 Definitions.

* * * * *

Employee means an employee of an agency. When the term *employee* is used to describe an individual who is making a back pay claim, it also may mean a former employee.

* * * * *

Pay, allowances, and differentials means pay, leave, and other monetary employment benefits to which an employee is entitled by statute or regulation and which are payable by the employing agency to an employee during periods of Federal employment. Agency and employee contributions to a retirement investment fund, such as the Thrift Savings Plan, are not covered. Monetary benefits payable to separated or retired employees based upon a separation from service, such as retirement benefits, severance payments, and lump-sum payments for annual leave, are not covered.

* * * * *

51. In § 550.805, paragraph (e) is revised and a new paragraph (h) is added to read as follows:

§ 550.805 Back pay computations.

* * * * *

(e) In computing the net amount of back pay payable under section 5596 of title 5, United States Code, and this subpart, an agency must make the following offsets and deductions (in the order shown) from the gross back pay award:

(1) Any outside earnings (gross earnings less any associated business losses and ordinary and necessary business expenses) received by an employee for other employment (including a business enterprise) undertaken to replace the employment from which the employee was separated by the unjustified or unwarranted personnel action during the interim period covered by the corrective action. Do not count earnings from additional or ''moonlight'' employment the employee may have engaged in while Federally employed (before separation) and while erroneously separated.

(2) Any erroneous payments received from the Government as a result of the unjustified or unwarranted personnel action, which, in the case of erroneous payments received from a Federal employee retirement system, must be returned to the appropriate system. Such payments must be recovered from the back pay award in the following order:

(i) Retirement annuity payments (i.e., gross annuity less deductions for life insurance and health benefits premiums, if those premiums can be recovered by the affected retirement system from the insurance carrier);

(ii) Refunds of retirement contributions (i.e., gross refund before any deductions);

(iii) Severance pay (i.e., gross payments before any deductions); and

(iv) A lump-sum payment for annual leave (i.e., gross payment before any deductions).

(3) Authorized deductions of the type that would have been made from the employee's pay (if paid when properly due) in accordance with the normal order of precedence for deductions from pay established by the agency, subject to any applicable law or regulation, including, but not limited to, the

following types of deductions, as applicable:

(i) Mandatory employee retirement contributions toward a defined benefit plan, such as the Civil Service Retirement System or the defined benefit component of the Federal Employees Retirement System;

(ii) Social Security taxes and Medicare taxes;

(iii) Health benefits premiums, if coverage continued during a period of erroneous retirement (with paid premiums recoverable by the retirement system) or is retroactively reinstated at the employee's election under 5 U.S.C. 8908(a);

(iv) Life insurance premiums if—

(A) Coverage continued during a period of erroneous retirement;

(B) Coverage was stopped during an erroneous suspension or separation and the employee suffered death or accidental dismemberment during that period (consistent with 5 U.S.C. 8706(d)); or

(C) Additional premiums are owed because of a retroactive increase in basic pay; and

(v) Federal income tax withholdings.

(Note to paragraph (e)(3): See appendix A to this subpart for additional information on computing certain deductions.)

(4) Administrative offsets under 31 U.S.C. 3716 to recover any other outstanding debt(s) owed to the Federal Government by the employee, as appropriate.

* * * * *

(h) Agencies must correct errors that affect an employee's Thrift Savings Plan account consistent with regulations prescribed by the Federal Retirement Thrift Investment Board. (See parts 1605 and 1606 of this title.)

52. In § 550.806, paragraph (h) is removed, and paragraph (a) is amended by redesignating paragraph (a) as paragraph (a)(1) and adding a new paragraph (a)(2) to read as follows:

§ 550.806 Interest computations.

(a) * * *

(2) Interest accrual ends at a time selected by the agency that is no more than 30 days before the date of the back pay interest payment. No interest is payable if a complete back pay payment is made within 30 days after any erroneous withdrawal, reduction, or denial of a payment, and the interest accrual ending date is set to coincide with the interest accrual starting date.

* * * * *

53. A new appendix A is added to subpart H of part 550 to read as follows:

Appendix A to Subpart H of Part 550—Information on Computing Certain Common Deductions From Back Pay Awards

To determine the net back payment owed an employee, an agency must make certain required deductions. (See § 550.805(e)(3).) To compute these deductions, an agency must determine the appropriate base or follow other rules, consistent with applicable law. Some deductions, such as tax deductions, are not subject to OPM regulation. To assist agencies, this appendix summarizes the rules for certain common deductions. For further information on Federal tax deductions from back pay awards, please contact the Internal Revenue Service directly or review relevant IRS publications.

Type of deduction	How to Compute the deduction
(a) Mandatory employee retirement contributions.	Compute the deduction based on the basic pay portion of gross back pay before adding interest or applying any offset or deduction.
(b) Life insurance premiums	Compute the deduction based on the basic pay portion of gross back pay before adding interest or applying any offset or deduction.
(c) Social Security (OASDI) and Medicare taxes.	Compute the deduction based on adjusted gross back pay (gross back pay less the offset for outside earnings under § 550.805(e)(1), but before adding interest). The deduction may be reduced dollar-for-dollar by the amount of any Social Security or Medicare taxes that were withheld from erroneous payments made in the same calendar year as the back pay award, but only if— (1) Those erroneous payments were actually recovered by the Government by offsetting the back pay award as provided in § 550.805(e)(2); and (2) Those withheld taxes have not already been repaid to the employee. Note: Social Security taxes are subject to the applicable Social Security tax wage base limit. In addition, see IRS guidance regarding possible correction and refunding of Social Security and Medicare taxes withheld from erroneous payments in a prior calendar year.
(d) Federal income tax withholdings	Compute the deduction based on adjusted gross back pay (gross back pay less the offset for outside earnings under § 550.805(e)(1), but before adding interest) less any part of back pay not subject to income tax deductions, such as nonforeign area cost-of-living allowances and contributions to the Thrift Savings Plan that are deducted from the pay of the employee. The deduction may be reduced dollar-for-dollar by the amount of any Federal income taxes withheld from erroneous payments made in the same calendar year as the back pay award, but only if— (1) Those erroneous payments were actually recovered by the Government by offsetting the back pay award as provided in § 550.805(e)(2); and (2) Those withheld taxes have not already been repaid to the employee. Note: Additional Federal income tax withholdings from the interest portion of the back pay award may be required by the Internal Revenue Service in certain specific circumstances.

Subpart I—Pay for Duty Involving Physical Hardship or Hazard

54. The authority citation for subpart I of part 550 continues to read as follows:

Authority: 5 U.S.C. 5545(d), 5548(b).

55. In § 550.902, the definition of *employee* is revised to read as follows:

§ 550.902 Definitions.

* * * * *

Employee means an employee covered by the General Schedule (i.e., covered by chapter 51 and subchapter III of chapter 53 of title 5, United States Code).

* * * * *

56. In § 550.903, the introductory text of paragraph (b) is revised to read as follows:

§ 550.903 Establishment of hazard pay differentials.

* * * * *

(b) Amendments to appendix A of this subpart may be made by OPM on its own motion or at the request of the head of an agency (or authorized designee).

The head of an agency (or authorized designee) may recommend the rate of hazard pay differential to be established and must submit, with its request for an amendment, information about the hazardous duty or duty involving physical hardship showing—

* * * * *

57. Section 550.905 is revised to read as follows:

§ 550.905 Payment of hazard pay differential.

(a) When an employee performs duty for which a hazard pay differential is authorized, the agency must pay the hazard pay differential for the hours in a pay status on the day (a calendar day or a 24-hour period, when designated by the agency) on which the duty is performed, except as provided in paragraph (b) of this section. Hours in a pay status for work performed during a continuous period extending over 2 days must be considered to have been performed on the day on which the work began, and the allowable differential must be charged to that day.

(b) Employees may not be paid a hazardous duty differential for hours for which they receive annual premium pay for regularly scheduled standby duty under § 550.141, annual premium pay for administratively uncontrollable overtime work under § 550.151, or availability pay for criminal investigators under § 550.181.

Subpart K—Collection of Offset From Indebted Government Employees

58. The authority citation for subpart K of part 550 continues to read as follows:

Authority: 5 U.S.C. 5514; sec. 8(1) of E.O. 11609; redesignated in sec. 2–1 of E.O. 12107.

§ 550.1104 [Amended]

59. In § 550.1104, paragraph (c)(2) is amended by adding ''contesting'' after ''point of contact for'', and paragraph (d)(2) is amended by removing ''accont'' and adding ''account'' in its place.

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

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

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

Subpart D—Hours of Work

§ 551.401 [Amended]

61. In § 551.401, paragraphs (f) and (g) are amended by removing ''§ 410.602'' and adding in its place ''§ 410.402'.

62. In § 551.423, paragraph (a)(3) is amended by removing the period at the end of the paragraph and adding in its place '', except as provided by § 410.402(b) of this chapter and paragraphs (f) and (g) of § 551.401.'' and paragraph (b)(1) is revised to read as follows:

§ 551.423 Time spent in training or attending a lecture, meeting, or conference.

* * * * *

(b) * * *

(1) *Directed to participate* means that the training is required by the agency and the employee's performance or continued retention in his or her current position will be adversely affected by nonenrollment in such training. The fact that an agency pays for all or part of the expenses of training does not create an entitlement to overtime hours of work unless participation in the training is directed by the agency.

* * * * *

63. In § 551.431, paragraph (a) is revised to read as follows:

§ 551.431 Time spent on standby duty or in an on-call status.

(a)(1) An employee is on duty, and time spent on standby duty is hours of work if, for work-related reasons, the employee is restricted by official order to a designated post of duty and is assigned to be in a state of readiness to perform work with limitations on the employee's activities so substantial that the employee cannot use the time effectively for his or her own purposes. A finding that an employee's activities are substantially limited may not be based on the fact that an employee is subject to restrictions necessary to ensure that the employee will be able to perform his or her duties and responsibilities, such as restrictions on alcohol consumption or use of certain medications.

(2) An employee is not considered restricted for ''work-related reasons'' if, for example, the employee remains at the post of duty voluntarily, or if the restriction is a natural result of geographic isolation or the fact that the employee resides on the agency's premises. For example, in the case of an employee assigned to work in a remote wildland area or on a ship, the fact that the employee has limited mobility when relieved from duty would not be a basis for finding that the employee is restricted for work-related reasons.

* * * * *

64. In § 551.432:

A. Paragraph (a)(1) is amended by removing ''tour of duty'' and adding ''work shift'' in its place;

B. Paragraphs (b) and (c) are revised; and

C. New paragraphs (e) and (f) are added.

The revisions and additions read as follows:

§ 551.432 Sleep time.

* * * * *

(b) For employees engaged in law enforcement or fire protection activities who receive annual premium pay under 5 U.S.C. 5545(c)(1) or (2), the requirements of paragraph (a) of this section apply, except that on-duty sleep time may be excluded from hours of work only if the work shift is more than 24 hours.

(c) The total amount of bona fide sleep and meal time that may be excluded from hours of work may not exceed 8 hours in a 24-hour period.

* * * * *

(e) On-duty sleep and meal time during regularly scheduled hours for which standby duty premium pay under 5 U.S.C. 5545(c)(1) is payable may not be excluded from hours of work.

(f) For firefighters compensated under 5 U.S.C. 5545b, on-duty sleep and meal time may not be excluded from hours of work.

Subpart E—Overtime Pay Provisions

65. In § 551.501, paragraph (a)(2) is amended by removing ''§ 410.602'' and adding in its place ''§ 410.402'', and paragraph (a)(5) is revised to read as follows:

§ 551.501 Overtime pay.

(a) * * *

(5) On the basis of hours of work in excess of 40 hours in a workweek for an employee engaged in fire protection or law enforcement activities when the employee is receiving compensation under 5 U.S.C. 5545(c)(1) or (2) or 5545b, or is not an employee (as defined in 5 U.S.C. 5541(2)) for the purposes of 5 U.S.C. 5542, 5543, and 5544;

* * * * *

§ 551.511 [Amended]

66. In § 551.511, paragraph (b)(3) is amended by removing ''(*e.g.,* incentive awards for outstandingly high-quality work)'' and adding in its place ''(*i.e.,* discretionary cash awards or bonuses)''.

§ 551.512 [Amended]

67. In § 551.512, paragraph (b) is amended by removing ''(exclusive of any premiums or differentials)'' and adding in its place ''(exclusive of any premiums, differentials, or cash awards or bonuses)''.

68. A new § 551.514 is added to read as follows:

§ 551.514 Nondiscretionary bonuses.

(a) When an employee earns a nondiscretionary cash award or bonus (as opposed to discretionary cash awards or bonuses as described in § 551.511(b)(3)), the bonus must be taken into account in determining overtime pay for the period of time during which the bonus was earned. An agency may meet the overtime pay requirements for the bonus period by using one of the procedures described in paragraphs (b) and (c) of this section. The procedures in paragraphs (b)(1) and (b)(2) of this section calculate the additional overtime pay the employee is due. The procedures in paragraphs (b)(3), (c)(2), and (c)(3) of this section describe methods where the overtime pay requirements are met in the calculation or distribution of the bonus itself.

(b) *Individual computation methods.* (1) *Week-by-week recomputation method.* The agency may compute the additional overtime pay owed an employee by allocating the nondiscretionary bonus payable under the agency bonus plan to the weeks or hours during which it was earned and recomputing the employee's total remuneration, hourly regular rate, and overtime pay for each applicable workweek in the bonus period.

(2) *Bonus hourly rate method.* The agency may assume that an equal amount of the nondiscretionary bonus applies to each hour worked during the bonus period and derive a bonus hourly rate by dividing the employee's total bonus by the total number of hours worked by the employee during the bonus period. Then the agency may compute the employee's additional overtime pay by multiplying one-half of that bonus hourly rate by the total number of overtime hours worked by the employee during the bonus period.

(3) *Percentage bonus method.* An agency may establish a nondiscretionary bonus as a fixed percentage of total pay (*i.e.,* pre-bonus total remuneration, including straight time pay for any overtime hours, plus any half-rate overtime pay under § 551.512(a)(2)) to be earned by the employee during a future period of service. This method may not be used to circumvent any bonus limitations that might otherwise apply. At the agency's discretion, the portion of the bonus attributable to the employee's half-rate overtime pay under § 551.512(a)(2) may be excluded in applying bonus limitations, since it can be viewed as constituting additional FLSA overtime pay. (This method does not apply to nondiscretionary bonuses established as a percentage of a segment of pay, such as ratings-based cash awards under § 451.104(g) of this chapter that are expressed as a percentage of basic pay, excluding locality adjustments. To meet overtime pay requirements for these types of bonuses, use one of the methods described in paragraphs (b)(1) or (b)(2) of this section.)

(c) *Group-based bonus distribution methods.* (1) For employees who have earned nondiscretionary group cash awards or bonuses, payment of a bonus under one of the methods of distribution described in paragraphs (c)(2) and (c)(3) of this section is considered to be in full compliance with the overtime pay requirements of this subpart. These methods may not be used to circumvent any bonus limitations that might otherwise apply.

(2) *Percentage method.* (i) Identify the amount of the group bonus under the agency's bonus plan and the period of time during which it was earned;

(ii) Establish the group bonus as a percentage of the total pay (i.e., total remuneration before considering the group bonus, including straight time pay for any overtime hours, plus any half-rate overtime pay under § 551.512(a)(2)) earned by employees in the group during the bonus period; and (iii) Multiply the percentage in paragraph (c)(2)(ii) of this section times each individual employee's total pay earned during the bonus period to determine each employee's share of the group bonus.

(3) *Boosted hour method.* (i) Identify the amount of the group bonus under the agency's bonus plan and the period of time during which it was earned;

(ii) Determine the total number of boosted hours for all employees under the group bonus plan by adding up the total number of hours of work by those employees (nonovertime and overtime hours) and increasing that sum by one-half of the total number of overtime hours;

(iii) Divide the amount of the group bonus by the total number of boosted hours for all employees under the group bonus plan to determine the amount of the bonus allocable to each hour; and (iv) Multiply this hourly bonus amount by the number of boosted hours credited to each individual employee in the bonus period to determine each employee's share of the group bonus.

69. In § 551.531, a new paragraph (e) is added to read as follows:

§ 551.531 Compensatory time off.

* * * * *

(e) The dollar value of compensatory time off when it is liquidated, or for the purpose of applying pay limitations, is the amount of overtime pay the employee otherwise would have received for the hours of the pay period during which compensatory time off was earned by performing overtime work.

§ 551.541 [Amended]

70. In § 551.541, paragraph (b) is amended by removing ''511.411(c)'' and adding in its place ''551.411(c)''.

PART 575—RECRUITMENT AND RELOCATION BONUSES; RETENTION ALLOWANCES; SUPERVISORY DIFFERENTIALS

71. The authority citation for part 575 is revised to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 5753, 5754, and 5755; secs. 302 and 404 of the Federal Employees Pay Comparability Act of 1990 (FEPCA) (Pub. L. 101–509), 104 Stat. 1462 and 1466, respectively; E.O. 12748, 3 CFR, 1992 Comp., p. 316.

Subpart A—Recruitment Bonuses

72. In § 575.102, paragraph (a)(3) is revised to read as follows:

§ 575.102 Delegation of authority.

(a) * * *

(3) A Senior Executive Service position paid under 5 U.S.C. 5383 or a Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service position paid under 5 U.S.C. 3151;

* * * * *

73. In § 575.103, the definition of *involuntary separated* is amended by removing the words ''the commuting area'' wherever they appear and adding in their place the words ''his or her commuting area''; the definition of *service agreement* is amended by removing the words ''of a minimum of 12 months''; and the definition of *commuting area* is revised to read as follows:

§ 575.103 Definitions.

* * * * *

Commuting area has the meaning given that term in § 575.203.

* * * * *

Subpart B—Relocation Bonuses

74. In § 575.202, paragraph (a)(3) is revised to read as follows:

§ 575.202 Delegation of authority.

(a) * * *

(3) A Senior Executive Service position paid under 5 U.S.C. 5383 or a Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service position paid under 5 U.S.C. 3151;

* * * * *

75. In § 575.203, the definition of *involuntary separated* is amended by removing the words ''the commuting area'' wherever they appear and adding in their place the words ''his or her commuting area''; and the definitions of *commuting area* and *employee* are revised to read as follows:

§ 575.203 Definitions.

* * * * *

Commuting area means the geographic area surrounding a work site that encompasses the localities where people live and reasonably can be expected to travel back and forth daily to work, as established by the employing agency based on the generally held expectations of the local community. When an employee's residence is within the standard commuting area for a work site, the work site is within the employee's commuting area. When an employee's residence is outside the standard commuting area for a proposed new work site, the employee's commuting area is deemed to include the expanded area surrounding the employee's residence and including all destinations that can be reached via a commuting trip that is not significantly more burdensome than the current commuting trip. This excludes a commuting trip from a residence where the employee planned to stay only temporarily until he or she could find a more permanent residence closer to his or her work site. For this purpose, a commuting trip to a new work site is considered significantly more burdensome if it would compel the employee to change his or her place of residence in order to continue employment, taking into account commuting time and distance, availability of public transportation, cost, and any other relevant factors.

Employee means—

(a) An individual in the civil service (as defined in 5 U.S.C. 2101) who is relocated without a break in service upon appointment to a position in or under an agency in a different commuting area; or

(b) An employee in or under an agency whose duty station is changed permanently or temporarily to a different commuting area.

* * * * *

§ 575.205 [Amended]

76. In § 575.205, paragraph (b)(5) is amended by adding a parenthesis after the word ''Code''.

Subpart C—Retention Allowances

77. In § 575.302, paragraph (a)(3) is revised to read as follows:

§ 575.302 Delegation of authority.

(a) * * *

(3) A Senior Executive Service position paid under 5 U.S.C. 5383 or a Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service position paid under 5 U.S.C. 3151;

* * * * *

78. In § 575.307, paragraph (a) is revised to read as follows:

§ 575.307 Reduction or termination of retention allowances.

(a) The agency must reduce or terminate the authorized amount of a retention allowance to the extent necessary to ensure that the employee's estimated aggregate compensation, as defined in § 530.202 of this chapter, does not exceed the rate for level I of the Executive Schedule at the end of the calendar year.

* * * * *

PART 591—ALLOWANCES AND DIFFERENTIALS

Subpart B—Cost-of-Living Allowance and Post Differential—Nonforeign Areas

79. The authority citation for subpart B of part 591 continues to read as follows:

Authority: 5 U.S.C. 5941; E.O. 10000, 3 CFR, 1943–1948 Comp., p. 792; and E.O. 12510, 3 CFR, 1985 Comp., 338.

80. In § 591.201, the definition of *official duty station* is revised to read as follows:

§ 591.201 Definitions.

* * * * *

Official duty station means the duty station for an employee's position of record as indicated on his or her most recent notification of personnel action, excluding a new duty station for an assignment that is followed immediately (i.e., within 3 workdays) by a reduction in force resulting in the employee's separation before he or she is required to report for duty at the new location. For an employee who is authorized to receive relocation allowances under 5 U.S.C. 5737 in connection with an extended assignment, the temporary duty station associated with that assignment is the employee's official duty station.

* * * * *

PART 610—HOURS OF DUTY

Subpart A—Weekly and Daily Scheduling of Work

81. The authority citation for subpart A of part 610 is revised to read as follows:

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

82. In § 610.102, the definition of *administrative workweek* is revised to read as follows:

§ 610.102 Definitions.

* * * * *

Administrative workweek means any period of 7 consecutive 24-hour periods designated in advance by the head of the agency under section 6101 of title 5, United States Code.

* * * * *

§ 610.111 [Amended]

83. Section 610.111 is amended by removing the word ''regulation'' in the introductory text of paragraph (a) and adding the words ''a written agency policy statement'' in its place, by removing the word ''regulation'' in paragraphs (a)(1) and (a)(2) and adding in each place the words ''written agency policy statement'', and by removing the words ''regulation of the agency'' in paragraph (c)(2) and adding the words ''a written agency policy statement''.

Subpart D—Flexible and Compressed Work Schedules

84. The authority citation for subpart D of part 610 continues to read as follows:

Authority: 5 U.S.C. 6133(a).

85. In § 610.407, the existing text is designated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 610.407 Premium pay for holiday work for employees on compressed work schedules.

* * * * *

(b) An employee on a compressed work schedule is not entitled to holiday premium pay while engaged in training, except as provided in § 410.402 of this chapter.

[FR Doc. 99–31867 Filed 12–9–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AH81

Prevailing Rate Systems; Changes in Federal Wage System Survey Jobs

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule that will change the Helper (Trades) WG–5 appropriated fund Federal Wage System (FWS) survey job from required to optional, add the word ''Heavy'' to the name of the Janitor WG–2 FWS survey job, change the title of the Warehouseman WG–5 survey job to Warehouse Worker WG–5, and remove the Boiler Plant Operator WG–9 survey job from the list of optional survey jobs. These changes are being made to make FWS survey jobs more useful survey tools for local wage surveys.

DATES: This regulation is effective on January 10, 2000.

FOR FURTHER INFORMATION CONTACT: Mark A. Allen, (202) 606–2848, FAX: (202) 606–0824, or email to maallen@opm.gov.

SUPPLEMENTARY INFORMATION: On April 26, 1999, the Office of Personnel Management (OPM) published a proposed rule (64 FR 20221) to make changes in four Federal Wage System (FWS) survey jobs. The FWS is the pay system for the Federal Government's blue-collar workforce. OPM is engaged in an ongoing project to review the survey job descriptions used by Federal agencies during FWS local wage surveys to determine prevailing rates of pay for FWS employees.

In the past, the Helper (Trades) WG–5 survey job has produced adequate data for use in calculating FWS pay rates in only about one-quarter of the appropriated fund FWS wage areas. Because of this, we are making its use optional rather than required. Also, we are adding the word ''Heavy'' to the title of the Janitor WG–2 appropriated fund FWS survey job. This will better distinguish the Janitor WG–2 survey job from the Janitor (Light) WG–1 survey job. The Warehouseman WG–5 survey job title is changing to Warehouse Worker WG–5 to modernize the Warehouseman WG–5 survey job title.

Finally, we are removing the Boiler Plant Operator WG–9 survey job from the list of optional survey jobs. The Boiler Plant Operator WG–10 survey job will remain an optional survey job. This change is being made because only 0.5 percent of FWS employment in WG–9 positions is represented by this survey job, and matching private sector jobs only at the WG–10 journey level will be more consistent with the other survey jobs used in FWS wage surveys.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, has reviewed and concurred by consensus with these changes. The proposed rule provided a 30-day public comment period. We received no comments during this period.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

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

List of Subjects in 5 CFR Part 532

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

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

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

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

§ 532.217 [Amended]

2. In § 532.217, the table in paragraph (a) is amended by adding the word ''(Heavy)'' after the Job title ''Janitor'', by removing the Job title Warehouseman and replacing it with ''Warehouse Worker'', by removing the Job title and Job grade for ''Helper (Trades)'' and adding it to the table in paragraph (c) after ''Light Vehicle Operator'' and the table in paragraph (c) is also amended by removing the Job title ''Boiler Plant Operator'' and Job grade ''9''.

[FR Doc. 99–32067 Filed 12–9–99; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Parts 503, 505, 557, 559, 563, 572

[No. 99–79]

Technical Amendments

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision (OTS) is amending its regulations to incorporate a number of technical and conforming amendments. OTS is updating statutory references and regulatory cross-references, amending provisions that contain minor drafting errors, and making other minor changes.

EFFECTIVE DATE: December 10, 1999.

FOR FURTHER INFORMATION CONTACT: Mary H. Gottlieb, Senior Paralegal (Regulations), (202) 906–7135, or Karen A. Osterloh, Assistant Chief Counsel, (202) 906–6639, Regulations and Legislation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION: OTS is amending its regulations to incorporate a number of technical and conforming amendments. Specifically, OTS is amending:

- Part 503—Privacy Act. OTS has updated office names and employee titles.
- Part 505—Freedom of Information Act. OTS has updated office names, employee titles, and references for requesting records by e-mail.
- Part 557—Deposits. OTS has added an inadvertently omitted statutory citation to § 557.11.
- Part 559—Subordinate Organizations. OTS has corrected an erroneous cross-reference to a FDIC regulation requiring savings associations to file a notice before acquiring or establishing a subsidiary or conducting new activities through a subsidiary.
- Part 563—Operations. OTS has clarified that its frequency of examination regulation relates solely to safety and soundness examinations, as opposed to compliance examinations. OTS has also corrected a typographical error in its transactions with affiliates regulations.
- Part 572—Loans in Areas Having Special Flood Hazards. OTS has deleted a cross-reference to Federal Emergency Management Agency (FEMA) regulations at 44 CFR Part 65, Appendix

A, which had contained the text of the Standard Flood Hazard Determination Form (Form). FEMA removed Appendix A in 1998. OTS has revised its regulation to indicate where lenders may obtain copies of the Form.

Administrative Procedure Act; Riegle Community Development and Regulatory Improvement Act of 1994

The OTS has found good cause to dispense with both prior notice and comment on this final rule and a 30-day delay of its effective date mandated by the Administrative Procedure Act.[1] OTS believes that it is contrary to public interest to delay the effective date of the rule, as it corrects provisions that have caused confusion. Because the amendments in the rule are not substantive, making them effective immediately will not detrimentally affect savings associations.

In addition, this document is exempt from the requirement found in section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 [2] that regulations must not take effect before the first day of the quarter following publication, as it imposes no new requirements.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act,[3] it is certified that this technical corrections regulation will not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

OTS has determined that this rule is not a ''significant regulatory action'' for purposes of Executive Order 12866.

Unfunded Mandates Reform Act of 1995

OTS has determined that the requirements of this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995.

Paperwork Reduction Act

This final rule does not involve a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) This final rule, however, amends existing § 572.6, which contains paperwork burden. The final rule does not change the burden.

List of Subjects

12 CFR Part 503

Privacy.

12 CFR Part 505

Freedom of Information.

12 CFR Part 557

Investments, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 559

Reporting and recordkeeping requirements, Savings associations, Subsidiaries.

12 CFR Part 563

Accounting, Advertising, Crime, Currency, Investments, Reporting and recordkeeping requirements, Savings associations, Securities, Surety bonds.

12 CFR Part 572

Flood insurance, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision hereby amends title 12, chapter V of the Code of Federal Regulations as set forth below.

PART 503—PRIVACY ACT

1. The authority citation for part 503 continues to read as follows:

Authority: 5 U.S.C. 552a; 12 U.S.C. 1462a, 1463, 1464.

2. Section 503.1 is amended by revising the last sentence of paragraphs (b), (c), and (d) to read as follows:

§ 503.1 Scope and procedures.

* * * * *

(b) * * * Requests for information and specific guidance on where to send requests for records may be mailed or delivered personally to: Privacy Act Request, Manager, Dissemination Branch, Information Management & Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

(c) * * * Requests for amendment should be addressed to: Privacy Act Amendment Request, Manager, Dissemination Branch, Information Management & Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

(d) * * * Appeals made by mail should be addressed to, or delivered personally to: Privacy Act Amendment Appeal, Deputy Chief Counsel for General Law, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

* * * * *

PART 505—FREEDOM OF INFORMATION ACT

3. The authority citation for part 505 continues to read as follows:

Authority: 5 U.S.C. 552; 12 U.S.C. 1462a, 1463, 1464.

4. Section 505.2 is amended by revising the last sentence to read as follows:

§ 505.2 Public reference room.

* * * Contact the Dissemination Branch, Information Management & ServicesDivision, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, or visit the Public Reference Room at 1700 G Street, NW., Lower Level, from 9:00 a.m. to 4:00 p.m. on business days.

5. Section 505.3 is amended by revising the last two sentences to read as follows:

§ 505.3 Requests for records.

* * * Requests may be mailed to: Freedom of Information Act Request, Dissemination Branch, Information Management & Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, or marked ''FOIA'' and delivered in person to the Public Reference Room, Dissemination Branch, Information Management & Services Division, 1700 G Street, NW., Lower Level. Requests may also be sent by e-mail or facsimile.

6. Section 505.4 is amended by revising the last three sentences to read as follows:

§ 505.4 Administrative appeal of initial determination to deny records.

* * * Appeals by mail should be addressed to: Deputy Chief Counsel for General Law, 1700 G Street, NW., Washington, DC 20552. Appeals may be delivered personally to the Dissemination Branch, Information Management & Services Division, Office of Thrift Supervision 1700 G Street, NW., Lower Level. Appeals may also be sent by e-mail or facsimile.

PART 557—DEPOSITS

7. The authority citation for part 557 continues to read as follows:

Authority: 12 U.S.C. 1462a, 1463, 1464.

8. Section 557.11 is amended by revising paragraph (a) introductory text to read as follows:

[1] 5 U.S.C. 553.

[2] Pub. L. No. 103–325, 12 U.S.C. 4802.

[3] Pub. L. No. 96–354, 5 U.S.C. 601.

§ 557.11 To what extent does federal law preempt deposit-related state laws?

(a) Under sections 4(a), 5(a), and 5(b) of the HOLA, 12 U.S.C. 1463(a), 1464(a), and 1464(b), OTS is authorized to promulgate regulations that preempt state laws affecting the operations of federal savings associations when appropriate to:

* * * * *

PART 559—SUBORDINATE ORGANIZATIONS

9. The authority citation for part 559 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464, 1828.

10. Section 559.11 is amended by revising the second sentence to read as follows:

§ 559.11 What notices are required to establish or acquire a new subsidiary or engage in new activities through an existing subsidiary?

* * * The Notice must contain all of the information the Federal Deposit Insurance Corporation (FDIC) requires under 12 CFR 362.15. * * *

PART 563—OPERATIONS

11. The authority citation for part 563 continues to read as follows:

Authority: 12 U.S.C. 375b, 1462, 1462a, 1463, 1464, 1467a, 1468, 1817, 1820, 1828, 1831i, 3806; 42 U.S.C. 4106.

12. Section 563.41 is amended by revising paragraph (b)(1)(v)(B) to read as follows:

§ 563.41 Loans and other transactions with affiliates and subsidiaries.

* * * * *

(b) * * *

(1) * * *

(v) * * *

(B) That the Office determines presents a risk to the safety or soundness of the savings association, based on the nature of the activities conducted by the company, amount of transactions with the savings associations or its subsidiaries, financial condition of the company or its parent savings association, or other supervisory factors;

* * * * *

13. Section 563.171 is amended by revising the section heading to read as follows:

§ 563.171 Frequency of safety and soundness examination.

* * * * *

PART 572—LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

14. The authority citation for part 572 continues to read as follows:

Authority: 12 U.S.C. 1462, 1462a, 1463, 1464; 42 U.S.C. 4012a, 4104a, 4104b, 4106, 4128.

15. Section 572.6 is amended by revising paragraph (a) to read as follows:

§ 572.6 Required use of standard flood hazard determination form.

(a) *Use of form.* A savings association shall use the standard flood hazard determination form developed by the Director of FEMA when determining whether the building or mobile home offered as collateral security for a loan is or will be located in a special flood hazard area in which flood insurance is available under the Act. The standard flood hazard determination form may be used in a printed, computerized, or electronic manner. A savings association may obtain the standard flood hazard determination form from FEMA, P.O. Box 2012, Jessup, MD 20794–2012.

* * * * *

Dated: December 6, 1999.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 99–32066 Filed 12–9–99; 8:45 am]

BILLING CODE 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–33–AD; Amendment 39–11460; AD 98–25–10 R1]

RIN 2020–AA64

Airworthiness Directives; Aircraft Belts, Inc. Model CS, CT, FM, FN, GK, GL, JD, JE, JT, JU, MD, ME, MM, MN, NB, PM, PN, RG, and RH Seat Restraint Systems

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to Aircraft Belts, Inc. Model CS, CT, FM, FN, GK, GL, JD, JE, JT, JU, MD, ME, MM, MN, NB, PM, PN, RG, and RH seat restraint systems installed on, but not limited to, Beech Aircraft Corp., Bell Helicopter Textron, Inc., Cessna Aircraft Co., Dassault Aviation, Eurocopter Deutschland, Eurocopter France, Gulfstream Aerospace, Learjet Corp., Lockheed Aircraft Corp., and Piper Aircraft Corp. aircraft, that currently requires inspecting to ensure the locking mechanism is engaging properly and replacing the buckle-half of the seat restraint system, if necessary. This amendment will allow an owner/operator (pilot) to determine if the locking mechanism is engaging properly and will require replacing the buckle-half of the seat restraint system, if necessary. This amendment is prompted by a determination made by the FAA that pilots may perform the one-time check of the locking mechanism and that only affected seat restraint systems manufactured between March 1997 and November 1998 must be checked. The actions specified by this AD are intended to prevent failure of the seat restraint system due to the buckle assembly locking mechanism not engaging properly, which could result in the seat restraint system failing to properly secure the occupant during turbulence or landing.

EFFECTIVE DATE: January 14, 2000.

FOR FURTHER INFORMATION CONTACT: Rob Romero, Aerospace Engineer, Airplane Certification Office, ASW–150, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5102, fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by revising AD 98–25–10, Amendment 39–10936 (63 FR 67775, December 9, 1998), which is applicable to Aircraft Belts, Inc. Model CS, CT, FM, FN, GK, GL, JD, JE, JT, JU, MD, ME, MM, MN, NB, PM, PN, RG, and RH seat restraint systems, was published in the **Federal Register** (64 FR 47715, September 1, 1999). The action proposed to allow a pilot to determine if the seat restraint system's locking mechanism is engaging properly and required replacing the buckle-half of the seat restraint system, if necessary.

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

One commenter states that the proposal should be withdrawn because it serves no useful purpose and will only generate confusion. In lieu of a withdrawal, the commenter requests that the effective date of the existing AD be stated in the compliance provision and that a note be included in the revision that indicates operators who previously complied with the AD are not affected by the revision. The FAA does not concur with the commenter's suggestions.

While the AD revision is not intended to create any additional requirements, there are valid reasons for its issuance. This revision allows pilots to perform the required visual check; further, it establishes limits on the manufacture dates to which the AD is applicable. As to inserting a note giving credit to those that have already performed the requirements, that is unnecessary since the compliance provision allows this credit when it states ''unless accomplished previously.''

The commenter also states that the cost estimate given in the proposal is incorrect as the affected operators have already accomplished the inspection/replacement. Additionally, the commenter states that it would be more accurate to include in the cost estimate the paperwork costs that operators must generate to update their AD records to reflect the revised amendment number. The FAA does not concur because all operators may not have reached the 10 hours time-in-service compliance time.

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

The FAA estimates that 12,278 seat restraint systems of U.S. registry will be affected by this AD, that it will take approximately one-half work hour to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $10 per buckle half. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $368,340.

The regulations adopted herein will not impose substantial direct compliance costs on states or local governments or 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 13132, the FAA has not consulted with States or local authorities prior to the publication of this rule.

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 FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10936 (63 FR 67775, December 9, 1998), and by adding a new airworthiness directive (AD), Amendment 39–11460, to read as follows:

AD 98–25–10 R1 Aircraft Belts, Inc.: Amendment 39–11460. Docket No. 98–SW–33–AD. Revises AD 98–25–10, Amendment 39–10936.

Applicability: Model CS, CT, FM, FN, GK, GL, JD, JE, JT, JU, MD, ME, MM, MN, NB, PM, PN, RG, and RH seat restraint systems manufactured between March 1997 and November 1998 that are installed on, but not limited to, Beech Aircraft Corp., Bell Helicopter Textron, Inc., Cessna Aircraft Co., Dassault Aviation, Eurocopter Deutschland, Eurocopter France, Gulfstream Aerospace, Learjet Corp., Lockheed Aircraft Corp., and Piper Aircraft Corp. aircraft, certificated in any category.

Note 1: This AD applies to each seat restraint system 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 seat restraint systems that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required within 10 hours time-in-service after the effective date of this AD, unless accomplished previously.

To prevent failure of the seat restraint system due to the buckle assembly (buckle) locking mechanism not engaging properly, which could result in the seat restraint system failing to properly secure the occupant during turbulence or landing, accomplish the following:

Note 2: The part number (P/N) of the seat restraint system is on the identification label located on each end of the seat restraint system near the anchor point (Example: P/N MD A2626–E010). The model is designated by the first two letters of the P/N.

(a) Visually check all affected seat restraint systems to determine if the locking mechanism is engaging properly in accordance with the following:

(1) Open the lift lever of the buckle fully until it will not open any further. This will cause the locking mechanism to pivot on the pivot pin.

(2) Allow the spring to close the lift lever slowly until the lift lever is back to its at-rest position.

(3) After the lever is completely closed, examine the slot in the bottom of the buckle. The locking mechanism should be firmly seated against the edge of the slot as shown in Figure 1.

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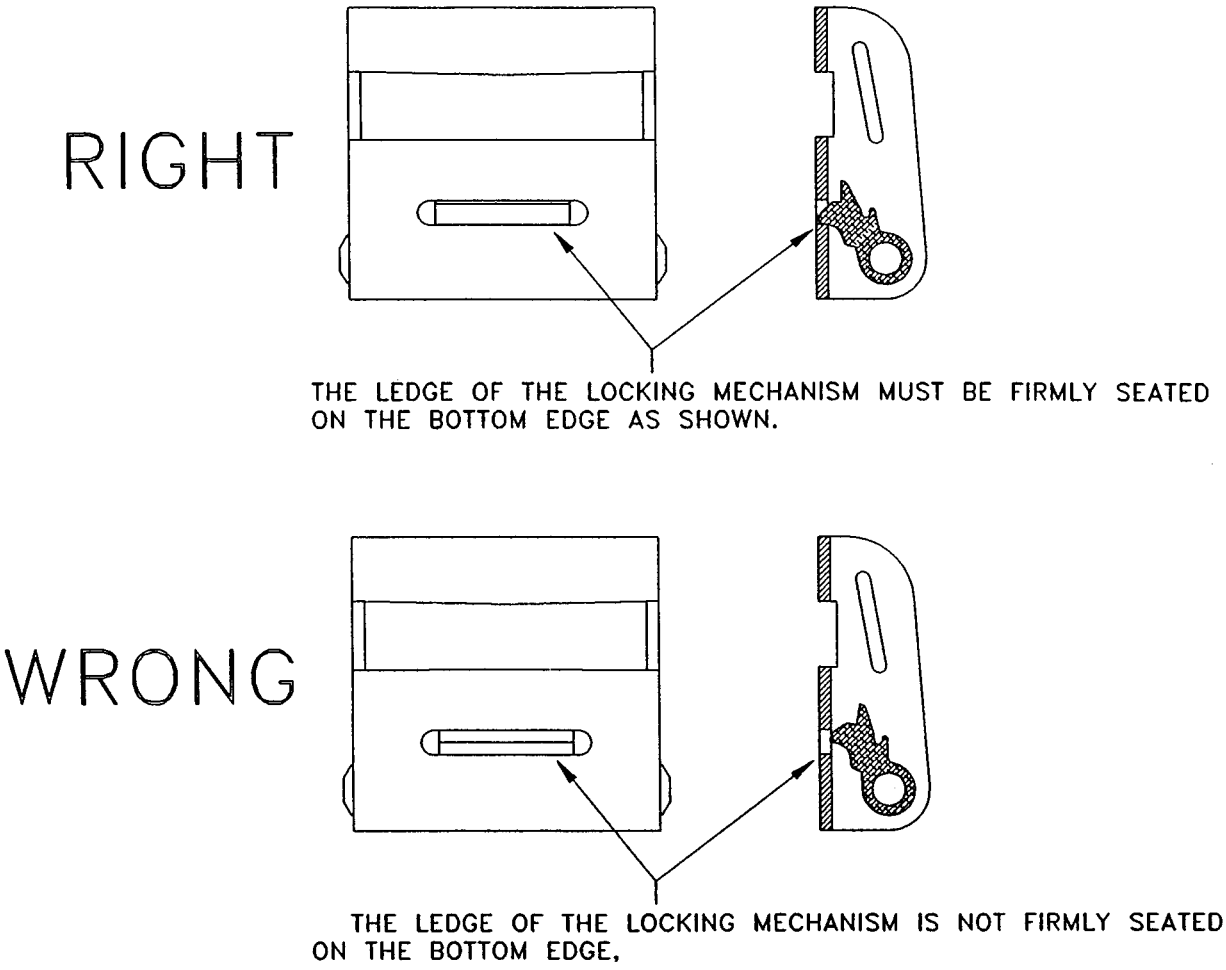

Figure 1

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(b) If the locking mechanism does not seat properly, replace the buckle with an airworthy buckle.

(c) The requirements of this AD may be performed by an owner/operator (pilot) holding at least a private pilot certificate and must be entered into the aircraft records showing compliance with this AD in accordance with sections 43.11 and 91.417(a)(2)(v) of the Federal Aviation Regulations (14 CFR sections 43.11 and 91.417(a)(2)(v)).

Note 3: If the seat restraint systems' locking mechanisms are found to be functioning properly after the visual check described in paragraph (a) of this AD, the following is an example of a maintenance record entry that may be used:

''AD (number), paragraph (a) complied with by visual check. Seat belt buckle locking mechanism(s) found serviceable. (Date) (Aircraft total time-in-service). (Signature) (Certificate number and type of certificate held)''

If any of the seat restraint systems' locking mechanisms are found to malfunction after the visual check described in paragraph (a), the following is an example of a maintenance record entry that may be used:

''AD (number), paragraphs (a) and (b) complied with by visual check and replacement of seat belt buckle locking mechanism(s) on (seat location(s)) with airworthy buckle(s). (Date) (Aircraft total time-in-service). (Signature) (Certificate number and type of certificate held)''

(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, Airplane Certification Office, FAA. Operators shall submit their requests through a FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Airplane Certification Office.

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

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

(f) This amendment becomes effective on January 14, 2000.

Issued in Fort Worth, Texas, on December 3, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–32083 Filed 12–9–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 10, 12, and 510

[Docket No. 99N–4957]

Removal of Designated Journals

AGENCY: Food and Drug Administration, HHS.

ACTION: Direct final rule.

SUMMARY: The Food and Drug Administration (FDA) is removing its regulation that lists the veterinary and scientific journals available in FDA's library. The purpose of the list is to allow individuals to reference articles from listed journals in new animal drug applications (NADA), documents submitted to the Dockets Management Branch, and objections and requests for a hearing on a regulation or order instead of submitting a copy or reprint of the article. FDA is taking this action because this list of journals is outdated and because individuals rarely use the regulation. Elsewhere in this issue of the **Federal Register**, FDA is issuing a companion proposed rule. If significant adverse comments are received about this direct final rule, it will be withdrawn and FDA will follow its usual procedures for notice-and-comment rulemaking based on the companion proposed rule.

DATES: This regulation is effective April 24, 2000. Submit written comments on this direct final rule by February 23, 2000. If FDA receives no significant adverse comments within the specified comment period, the agency intends to publish in the **Federal Register** a document confirming the effective date of the final rule within 30 days after the comment period on the direct final rule ends. If timely significant adverse comments are received, the agency will publish in the **Federal Register** a document withdrawing this direct final rule before its effective date.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gail L. Schmerfeld, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0205.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is amending the animal drug regulations to remove 21 CFR 510.95 *Designated journals.* This regulation lists veterinary and scientific journals available in FDA's library. It permits waiving submission of reprints and summaries of articles from listed journals. FDA is taking this action because the regulation has rarely been used, the list of journals is outdated, and FDA does not believe it to be a wise expenditure of its resources to update the list and to have reviewers retrieve copies of referenced journals from its library, given the minimal burden on individuals to submit copies. FDA notes that the change is more likely to expedite rather than delay review of applications and other documents. For example, if the sponsor provides a copy of the article in full it permits prompt and efficient review of the application.

Prior to the bifurcation of human and animal drug regulations under the Animal Drug Amendments of 1968, the designated journal rule was found at 21 CFR 130.38. At that time, 21 CFR 130.4, the rule covering new drug applications (human and animal) stated that, ''[r]eprints are not required of reports in designated journals.'' When the NADA rule (presently § 514.1 (21 CFR 514.1)) was separated from the new human drug applications rule, this reference to the designated journals rule was dropped. The agency continued to consider the designated journals provision cited above to be part of the NADA rule, however, and allowed sponsors to omit from their NADA's copies of articles from designated journals. The agency is not amending the NADA rule, § 514.1, since it does not refer to designated journals.

The direct final rule amends 21 CFR 10.20 *Submission of documents to the Dockets Management Branch; computation of time; availability for public disclosure* and 21 CFR 12.22 *Filing objections and requests for a hearing on a regulation or order* by eliminating the designated journals exception to the requirement that copies of cited articles be provided.

II. Rulemaking Action

In the **Federal Register** of November 21, 1997 (62 FR 62466), FDA described its procedures on when and how FDA will employ direct final rulemaking. FDA believes that this rule is appropriate for direct final rulemaking because FDA views this rule as a noncontroversial amendment and anticipates no significant adverse comments. Consistent with FDA's procedures on direct final rulemaking, FDA will publish a notice of significant adverse comment and withdraw this direct final rule within 30 days after the comment period ends if it receives any

significant adverse comments. If this direct final rule is withdrawn, FDA will consider all comments received in developing a final rule using the usual notice-and-comment rulemaking procedures, based on the companion proposed rule published elsewhere in this issue of the **Federal Register**. The companion proposed rule provides a procedural framework within which the rule may be finalized in the event the direct final rule is withdrawn because of any significant adverse comment. The comment period for the direct final rule runs concurrently with the companion proposed rule. Any comments received under the companion proposed rule will be considered as comments regarding the direct final rule.

FDA is providing a period of 75 days for comment on this direct final rule, to run concurrently with the comment period for the companion proposed rule. This comment period begins on December 10, 1999, and ends on February 23, 2000. If FDA receives any significant adverse comment, FDA intends to publish in the **Federal Register** a document to withdraw this direct final rule within 30 days after the comment period ends. If FDA receives no significant adverse comment during the specified comment period, FDA will publish in the **Federal Register** a document within 30 days after the comment period ends to confirm the effective date of this direct final rule.

A significant adverse comment is defined as a comment that explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. In determining whether a significant adverse comment is sufficient to terminate a direct final rulemaking, FDA will consider whether the comment raises an issue serious enough to warrant a substantive response in a notice-and-comment process. Comments that are frivolous, insubstantial, or outside the scope of the rule will not be considered significant or adverse under this procedure. A comment suggesting a change in addition to that proposed by the rule would not be considered a significant adverse comment, unless, as explained by the comment, the rule would be ineffective without change.

III. Analysis of Impacts

A. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

B. Economic Impact

FDA has examined the impacts of the direct final rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Regulatory Flexibility Act requires agencies to examine the economic impact of a rule on small entities. The Unfunded Mandates Reform Act requires agencies to prepare an assessment of anticipated costs and benefits before enacting any rule that may result in an expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation). The agency has reviewed this direct final rule and has determined that the rule is consistent with the principles set forth in the Executive Order and in these two statutes. FDA finds that the direct final rule will not be an economically significant rule under the Executive Order.

The direct final rule deletes the regulations regarding designated journals that could be referenced by a sponsor in its application and by anyone who submits a document to the Dockets Management Branch or files an objection and request for a hearing on a regulation or order. FDA is taking this action because the list is outdated, is not being used, and is not an efficient use of agency resources. The customary practice in industry is for those preparing NADA's to include a copy of all referenced material. This is preferred because it ensures the application is complete at submission and will not result in a delay in the review process. FDA estimates that the additional copying cost to those few applicants that relied on the rule would be insignificant, as well as offset by the savings to the agency from not copying the same material. The agency also estimates that the additional copying costs to those few individuals that relied on the rule for documents submitted to the Dockets Management Branch and for objections and requests for hearings on a regulation or order would be insignificant.

In accordance with the Regulatory Flexibility Act, FDA has considered the effect that this direct final rule will have on small entities, including small businesses, and certifies that this direct final rule will not have a significant economic impact on a substantial number of small entities. FDA has also analyzed this direct final rule in accordance with the Unfunded Mandates Reform Act and determined that the direct final rule will not result in the expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million. Therefore, no further analysis is required.

IV. The Paperwork Reduction Act of 1995

This direct final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Request for Comments

Interested persons may, on or before February 23, 2000, submit to the Docket Management Branch (address above) written comments regarding this direct final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. All received comments will be considered comments regarding the proposed rule and this direct final rule.

List of Subjects

21 CFR Part 10

Administrative practice and procedure, News media.

21 CFR Part 12

Administrative practice and procedure.

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 10, 12, and 510 are amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. The authority citation for 21 CFR part 10 continues to read as follows:

Authority: 5 U.S.C. 551–558, 701–706; 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–397, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264.

§ 10.20 [Amended]

2. Section 10.20 *Submission of documents to Dockets Management Branch; computation of time; availability for public disclosure* is amended by adding in paragraph (c)(1)(iii) the word ''or'' after the word ''available;'', by removing in paragraph (c)(1)(iv) the words ''agency; or'' and adding in its place the word ''agency.'', and by removing paragraph (c)(1)(v).

PART 12—FORMAL EVIDENTIARY PUBLIC HEARING

3. The authority citation for 21 CFR part 12 continues to read as follows:

Authority: 21 U.S.C. 141–149, 321–393, 467f, 679, 821, 1034; 42 U.S.C. 201, 262, 263b–263n, 264; 15 U.S.C. 1451–1461; 5 U.S.C. 551–558. 701–721; 28 U.S.C. 2112.

§ 12.22 [Amended]

4. Section 12.22 *Filing objections and requests for a hearing on a regulation or order* is amended by adding in paragraph (a)(5)(i)(*a*) the word ''or'' after the word ''available;'', by removing in paragraph (a)(5)(i)(*b*) the words ''agency; or'' and adding in its place the word ''agency.'', and by removing paragraph (a)(5)(i)(*c*).

PART 510—NEW ANIMAL DRUGS

5. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.3 [Amended]

6. Section 510.3 *Definitions and interpretations* is amended by removing paragraph (l).

§ 510.95 [Removed and Reserved]

7. Section 510.95 *Designated journals* is removed and reserved.

Dated: November 30, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–31907 Filed 12–9–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 179

[Docket No. 94F–0455]

Irradiation in the Production, Processing, and Handling of Food

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of X-radiation, produced by operation of X-ray tubes at energy levels of 500 kilovolt peak or lower, to inspect food. This action is in response to a petition filed by American Science and Engineering, Inc.

DATES: This regulation is effective December 10, 1999; written objections and request for a hearing by January 10, 2000.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Felicia Binion Williams, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3122.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 13, 1995 (60 FR 3249), FDA announced that a food additive petition (FAP 5M4438) had been filed by American Science and Engineering, Inc., 829 Middlesex Turnpike, Billerica, MA 01821, formerly 40 Erie St., Cambridge, MA 02139–4286. The petitioner proposed that the food additive regulations in § 179.21 *Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing* (21 CFR 179.21), be amended to provide for the safe use of X-radiation, produced by operation of X-ray tubes at energy levels of 500,000 electron volts (500 keV) or lower, to inspect cargo containers that may contain food. The current regulation limits the operation of X-ray tubes to energy levels of 300,000 electron volts (300 keV) peak or lower.

FDA has evaluated the data and information in the petition and other relevant material, and notes that information in the petition establishes that an extension of the upper limit on the energy level is necessary in order to be able to inspect large cargo containers using X-ray tubes. The data and information available to the agency establish that the maximum absorbed dose expected as a result of the petitioned use of X-radiation is 50 micrograys. This level of absorption is well below 10 grays, a level established as safe, by prior agency reviews.

The agency concludes that the proposed use of X-radiation, produced by operation of X-ray tubes at energy levels of 500 keV or lower, to inspect food, is safe and that the conditions listed in § 179.21 should be amended as set forth below. In addition, FDA is making a minor editorial change in the wording of the regulation to reflect the fact that operating voltage of the X-ray source should be described as a voltage, rather than an energy level. This change is more technically accurate and does not change the requirements of the current regulation.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time on or before January 10, 2000, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any

particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 343, 348, 373, 374.

2. Section 179.21(a)(1) is revised to read as follows:

§ 179.21 Sources of radiation used for inspection of food, for inspection of packaged food, and for controlling food processing.

* * * * *

(a) * * *

(1) X-ray tubes producing X-radiation from operation of the tube source at a voltage of 500 kilovolt peak or lower.

* * * * *

Dated: November 26, 1999.

L. Robert Lake,

Director, Office of Policy, Planning and Strategic Initiatives, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–32001 Filed 12–9–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor Address

AGENCY: Food and Drug Administration

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor address for Hoechst Roussel Vet.

DATES: This regulation is effective December 10, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Hoechst Roussel Vet, 30 Independence Blvd., P.O. Box 4915, Warren, NJ 07059, has informed FDA of a change of sponsor address to Perryville Corporate Park III, P.O. Box 4010, Clinton, NJ 08809–4010. Accordingly, the agency is amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) to reflect the change of sponsor address.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A), because it is a rule of ''particular applicability.'' Therefore, it is not subject to congressional review requirements in 5 U.S.C 801–808.

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

2. Section 510.600 is amended in the table in paragraph (c)(1) by revising the entry for ''Hoechst Roussel Vet'' and in the table in paragraph (c)(2) by revising the entry for ''012799'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* * * *
Hoechst Roussel Vet, Perryville Corporate Park III, P.O. Box 4010, Clinton, NJ 08809–4010.	012799
* * *	* * * *

(2) * * *

Drug labeler code	Firm name and address
* * *	* * * *
012799	Hoechst Roussel Vet, Perryville Corporate Park III, P.O. Box 4010, Clinton, NJ 08809–4010.
* * *	* * * *

Dated: December 2, 1999.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–32002 Filed 12–9–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–99–082]

RIN 2115–AE46

Special Local Regulations; BellSouth Winterfest Boat Parade, Broward County, Fort Lauderdale, Florida

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: Temporary Special local regulations are being adopted for the BellSouth Winterfest Boat Parade. The event will be held on December 11, 1999, on the waters of the Port Everglades turning basin and the Intracoastal Waterway from Dania Sound Light 35 (LLNR 47575) to the Pompano Beach Day Beacon 74 (LLNR 47230). The regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: These regulations become effective at 5 p.m. and terminate at 10 p.m. Eastern Standard Time (EST) on December 11, 1999.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD07–99–082] and are available for inspection or copying at the Seventh Coast Guard District, Room 918, 909 S.E. First Avenue, Miami, FL, between 7:30 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BM1 Storey, Coast Guard Group Miami, Florida at (305) 535–4472.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and making these regulations effective less than 30 days after the **Federal Register** publication. Publishing a Notice of Proposed Rulemaking and delaying the effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public as there will be thousands of spectator craft in the area and the event date is scheduled for December 11.

Background and Purpose

The BellSouth Winterfest Boat Parade is a nighttime parade of approximately 110 pleasure boats ranging in length from 20 feet to 200 feet decorated with holiday lights. Approximately 1000 spectator craft are anticipated. The parade will form in the staging area at the Port Everglades turning basin then proceed north on the Intracoastal Waterway (ICW) to Lake Santa Barbara where the parade will disband. The regulated area includes the staging area and the parade route. The staging area encompasses the Port Everglades turning basin, north to Dania Sound Light 35 LLNR 42865. The parade route encompasses the Intracoastal Waterway from Dania Sound Light 35 (LLNR 47575) to Pompano Beach day beacon 74 (LLNR 47230).

No anchoring is permitted in the staging area. Further, no anchoring is permitted in the vicinity of the viewing area which extends from the Sunrise Blvd Bridge south to the New River Sound Light 3 (LLNR 47240) west of the ICW. During the parade transit, these regulations prohibit nonparticipating vessels from approaching within 500 feet ahead of the lead vessel or 500 feet astern of the last participating vessel in the parade, and within 50 feet on either side of the parade, unless authorized by the Patrol Commander. After the passage of the parade participants, all vessels will be allowed to resume normal operations at the discretion of the Patrol Commander.

Regulatory Evaluation

This proposal 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. The Office of Management and Budget has not reviewed it under that order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040: February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The regulated area will only be in effect for five hours on one day.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic effect upon a substantial number of small entities. ''Small entities'' include small business, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as the regulations will only be in effect for five hours one day and the parade is a well known local event.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–221), we offer to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small entities may contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding and participating in this rulemaking. We also have a point of contact for commenting on actions by employees of the Coast Guard. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by

employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation. Additionally, an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) were prepared for this event in 1995 and event conditions have not changed. A copy of the EA and FONSI are available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), reporting and recordkeeping requirements. Waterways.

Temporary Regulations

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

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35T–07–082 is added to read as follows:

§ 100.35T–07–082 Bellsouth Winterfest Boat Parade, Broward County, Ft. Lauderdale, FL

(a) *Definitions.*

(1) *Staging area.* The staging area is the Port Everglades Turning Basin and that portion of the Intracoastal Waterway extending from Port Everglades Turning Basin to Dania Sound light 35 (LLNR 42865).

(2) *Parade route.* The parade route includes the Intracoastal Waterway from Dania Sound light 35 (LLNR 47575) to Pompano Beach daybeacon 74 (LLNR 47230).

(3) *Viewing area.* The viewing area extends from the Sunrise Blvd Bridge south to the New River Sound Light 3 (LLNR 47240) west of the ICW.

(4) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Miami, Florida. The Coast Guard assumes no responsibility for the operation of the event, the safety of participants and spectators, the safety of transient craft, and the qualification and instruction of participants. These responsibilities rest solely with the sponsor of the event.

(b) *Special Local Regulations.* (1) *Staging area.* Entry or anchoring in the staging area by nonparticipating vessels is prohibited, unless authorized by the Patrol Commander

(2) *Parade route.* During the parade transit, nonparticipating vessels are prohibited from approaching within 500 feet ahead of the lead vessel or 500 feet astern of the last participating vessel in the parade, and within 50 feet on either side of the parade unless authorized by the Patrol Commander.

(3) *Viewing area.* Anchoring in the vicinity of the viewing area is prohibited.

(4) *Miscellaneous.* A succession of not fewer than 5 short whistle or horn blasts from a patrol vessel will be the signal for any non-participating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately. At the discretion of the Patrol Commander, all vessels may resume normal operations after the passage of the parade participants.

(c) *Dates.* This section becomes effective at 5 p.m. and terminates at 10 p.m. EST on December 11, 1999.

Dated: December 2, 1999.

Thad W. Allen,

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

[FR Doc. 99–32092 Filed 12–7–99; 3:46 pm]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 219 and 225

[FRA–98–4898, Notice No. 2]

RIN 2130–AB30

Annual Adjustment of Monetary Threshold for Reporting Rail Equipment Accidents/Incidents and Other Technical Amendment

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule establishes at $6,600 the monetary threshold for reporting railroad accidents/incidents involving railroad property damage that occur during calendar year 2000. There is no change from the reporting threshold for calendar year 1999. This action is needed to ensure and maintain comparability between different years of data by having the threshold keep pace with any increases or decreases in equipment and labor costs so that each year accidents involving the same minimum amount of railroad property damage are included in the reportable accident counts. The reporting threshold was last reviewed in 1998. In addition, a typographical error in a threshold provision is corrected.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Robert L. Finkelstein, Staff Director, Office of Safety Analysis, RRS–22, Mail Stop 17, Office of Safety Assurance and Compliance, FRA, 1120 Vermont Ave., NW, Washington, DC 20590 (telephone

202–493–6280); or Nancy L. Friedman, Trial Attorney, Office of Chief Counsel, RCC–12, Mail Stop 10, FRA, 1120 Vermont Ave., NW, Washington, DC 20590 (telephone 202–493–6034).

SUPPLEMENTARY INFORMATION:

Background

Each rail equipment accident/incident must be reported to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). 49 CFR 225.19(b), (c). As revised in 1997, paragraphs (c) and (e) of 49 CFR 225.19, provide that the dollar figure that constitutes the reporting threshold for rail equipment accidents/incidents will be adjusted, if necessary, every year in accordance with the procedures outlined in appendix B to part 225, to reflect any cost increases or decreases. 61 FR 30942, 30969 (June 18, 1996); 61 FR 60632, 60634 (Nov. 29, 1996); 61 FR 67477, 67490 (Dec. 23, 1996).

New Reporting Threshold

Approximately one year has passed since the rail equipment accident/incident reporting threshold was last reviewed, and approximately two years since it was revised. 63 FR 71790 (Dec. 30, 1998), 62 FR 63675 (Dec. 2, 1997). Consequently, FRA has recalculated the threshold, as required by § 225.19(c), based on decreased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of $6,600, which applies to rail equipment accidents/incidents that occur during calendar year 1999, should remain the same for rail equipment accidents/incidents that occur during calendar year 2000, effective January 1, 2000.

Accordingly, §§ 225.5 and 225.19 and Appendix B have been amended to state the reporting threshold for calendar year 2000 and the most recent cost figures and the calculations made to determine that threshold. Finally, the alcohol and drug regulations (49 CFR part 219) are also amended to reflect that the reporting threshold for calendar year 2000 is $6,600.

Correction

In reviewing the reporting threshold, FRA noticed a typographical error in the definition of ''rail equipment accident/incident.'' The italicized words in the present definition, which follows, were introduced by mistake, were not given effect, and do not make sense; therefore, they are being deleted:

> Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, or other events involving the operation of railroad on-track equipment, *signals, track, track equipment* (standing or moving) that result in damages greater than the current reporting threshold (*i.e.* $6,300 for calendar years 1991 through 1996, $6,500 for calendar year 1997, and $6,600 for calendar years 1998 through 1999) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material.

49 CFR 225.19(c).

Notice and Comment Procedures

In this rule, FRA recalculates the monetary reporting threshold based on the formula adopted, after notice and comment, in the final rule published June 18, 1996, 61 FR 30959, 30969, and discussed in detail in the final rule published November 29, 1996, 61 FR 30632. FRA finds that both the current cost data inserted into this pre-existing formula and the original cost data that they replace were obtained from reliable Federal government sources. FRA also corrects a typographical error in the definition of ''rail equipment accident/incident.'' FRA finds that this rule imposes no additional burden on any person, but rather provides a benefit by permitting the valid comparison of accident data over time. Accordingly, FRA concludes that notice and comment procedures are impracticable, unnecessary, and contrary to the public interest. As a consequence, FRA is proceeding directly to this final rule.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing regulatory policies and procedures and is considered to be a nonsignificant regulatory action under DOT policies and procedures (44 FR 11034; February 26, 1979). This final rule also has been reviewed under Executive Order 12866 and is also considered ''nonsignificant'' under that Order.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires a review of rules to assess their impact on small entities, unless the Secretary certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule will have no new significant direct or indirect economic impact on small units of government, business, or other organizations. To the extent that this rule has any impact on small units, the impact will be neutral because the rule is maintaining, rather than increasing, their reporting burden.

Paperwork Reduction Act

There are no new information collection requirements associated with this final rule. Therefore, no estimate of a public reporting burden is required.

Environmental Impact

This final rule will not have any identifiable environmental impact.

Federalism Implications

This final rule will not have a substantial effect 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. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

List of Subjects

49 CFR Part 219

Alcohol abuse, Drug abuse, Drug testing, Penalties, Railroad safety, Reporting and recordkeeping requirements, Safety, Transportation.

49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

In consideration of the foregoing, FRA amends Parts 219 and 225, Title 49, Code of Federal Regulations as follows:

PART 219—[AMENDED]

1. The authority citation for part 219 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20111, 20112, 20113, 20140, 21301, 21304; and 49 CFR 1.49(m).

2. By amending § 219.5 by revising the first sentence in the definition of *Impact accident* and by revising the definitions of *Reporting threshold* and *Train accident* to read as follows:

§ 219.5 Definitions.

* * * * *

Impact accident means a train accident (*i.e.,* a rail equipment accident involving damage in excess of the current reporting threshold, $6,300 for calendar years 1991 through 1996, $6,500 for calendar year 1997, and $6,600 for calendar years 1998 through 2000) consisting of a head-on collision, a rear-end collision, a side collision (including a collision at a railroad crossing at grade), a switching collision, or impact with a deliberately-placed obstruction such as a bumping post.

* * *

* * * * *

Reporting threshold means the amount specified in § 225.19(e) of this chapter, as adjusted from time to time in accordance with appendix B to part 225 of this chapter. The reporting threshold for calendar years 1991 through 1996 is $6,300. The reporting threshold for calendar year 1997 is $6,500. The reporting threshold for calendar years 1998 through 2000 is $6,600.

* * * * *

Train accident means a passenger, freight, or work train accident described in § 225.19(c) of this chapter (a ''rail equipment accident'' involving damage in excess of the current reporting threshold, $6,300 for calendar years 1991 through 1996, $6,500 for calendar year 1997, $6,600 for calendar years 1998 through 2000), including an accident involving a switching movement.

* * * * *

3. By amending § 219.201 by revising the introductory text of paragraphs(a)(1) and (a)(2), and by revising paragraph (a)(4) to read as follows:

§ 219.201 Events for which testing is required.

(a) * * *

(1) *Major train accident.* Any train accident (*i.e.,* a rail equipment accident involving damage in excess of the current reporting threshold, $6,300 for calendar years 1991 through 1996, $6,500 for calendar year 1997, $6,600 for calendar years 1998 through 2000) that involves one or more of the following:

* * * * *

(2) *Impact accident.* An impact accident (*i.e.,* a rail equipment accident defined as an ''impact accident'' in § 219.5 of this part that involves damage in excess of the current reporting threshold, $6,300 for calendar years 1991 through 1996, $6,500 for calendar year 1997, and $6,600 for calendar years 1998 through 2000) resulting in—

* * * * *

(4) *Passenger train accident.* Reportable injury to any person in a train accident (*i.e.,* a rail equipment accident involving damage in excess of the current reporting threshold, $6,300 for calendar years 1991 through 1996, $6,500 for calendar year 1997, and $6,600 for calendar years 1998 through 2000) involving a passenger train.

* * * * *

PART 225—[AMENDED]

1. The authority citation for part 225 is revised to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20901, 20902, 21302, 21311; 49 U.S.C. 103; 49 CFR 1.49 (c), (g), and (m).

2. In § 225.19, by revising the first sentence of paragraph (c) and by revising paragraph (e) to read as follows:

§ 225.19 Primary groups of accidents/incidents.

* * * * *

(c) Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (*i.e.* $6,300 for calendar years 1991 through 1996, $6,500 for calendar year 1997, and $6,600 for calendar years 1998 through 2000) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. * * *

* * * * *

(e) The reporting threshold is $6,300 for calendar years 1991 through 1996. The reporting threshold is $6,500 for calendar year 1997 and $6,600 for calendar years 1998 through 2000. The procedure for determining the reporting threshold for calendar year 1997 and later appears as appendix B to part 225.

3. Part 225 is amended by revising paragraphs 8 and 9 of appendix B to read as follows:

Appendix B to Part 225—Procedure for Determining Reporting Threshold

* * * * *

8. Formula:

$$\text{New Threshold} = \text{Prior Threshold} \times \left\{ 1 + 0.5\frac{\left(W_n - W_p\right)}{W_p} + 0.5\frac{\left(E_n - E_p\right)}{100} \right\}$$

Where:

Prior Threshold = $6,600 (for rail equipment accidents/incidents that occur during calendar year 1999)

Wn = New average hourly wage rate ($) = 17.888333

Wp = Prior average hourly wage rate ($) = 18.085000

En = New equipment average PPI value ($) = 134.89166

Ep = Prior equipment average PPI value ($) = 134.49166

9. The result of these calculations is $6,577.3144. Since the result is rounded to the nearest $100, the new reporting threshold for rail equipment accidents/incidents that occur during calendar year 2000 is $6,600, which is the same as for calendar years 1998 through 1999.

Issued in Washington, DC, on November 15, 1999.

Jolene M. Molitoris,

Administrator, Federal Railroad Administration.

[FR Doc. 99–30666 Filed 12–9–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE75

Endangered and Threatened Wildlife and Plants; Final Endangered Status for the Plant Fritillaria gentneri (Gentner's fritillary)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered status under the Endangered Species Act of 1973, as amended (Act), for *Fritillaria gentneri* (Gentner's fritillary) (= Mission-bells). This plant is found only in two counties, Jackson and Josephine, in southwestern Oregon. This taxon is threatened by residential development, agricultural activities, logging, road and trail improvement, off-road vehicle use, collection for gardens, and problems associated with small population size. This rule implements the Federal protection and recovery provisions afforded by the Act for *Fritillaria gentneri.*

EFFECTIVE DATE: This final rule is effective January 10, 2000.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife

Service, Oregon Fish and Wildlife Office, 2600 S.E. 98th Ave., Suite 100, Portland, Oregon 97266.

FOR FURTHER INFORMATION CONTACT: Andrew Robinson, botanist, at the above address or by telephone 503/231–6179.

SUPPLEMENTARY INFORMATION:

Background

Fritillaria gentneri is a red-flowered herb belonging to the lily family (Liliaceae). *Fritillaria gentneri* was discovered by members of the Gentner family from Medford, Oregon, who noticed that a red fritillary brought into their garden (and seen in a flower arrangement at a friend's house) was different from the relatively common ''red bells,'' *Fritillaria recurva.* The new plant species, *Fritillaria gentneri,* was given its scientific name by Helen M. Gilkey (1951). Its taxonomic status was reviewed by Guerrant (1992), who addressed the question of whether what is referred to as *Fritillaria gentneri* is, in his words, ''a single historical entity''—a distinct species, or whether different populations of similar plants might have arisen independently from separate hybridization episodes between *Fritillaria recurva* and *Fritillaria affinis.* He concluded that *Fritillaria gentneri* is a separate species (Ed Guerrant, Berry Botanic Garden, *in litt.* 1998).

Fritillaria gentneri has a fleshy bulb and a robust stem 5 to 7 decimeters (20 to 28 inches (in.)) high. The stems and leaves are glaucous (having a bluish waxy coating) and are sometimes mottled with purple. The leaves are lanceolate (arrow shaped), sometimes linear, 7 to 15 centimeters (cm) (3 to 6 in) long and 0.7 to 1.5 cm (0.3 to 0.6 in) wide at the base, and they are often whorled (in groups of three or more at the same point on the stem). The flowers are solitary or in bracted racemes (simply branched flowering stem with a small leaf at the base of each branch), solitary or in groups of up to five on long pedicels (the stalk supporting a single flower). The campanulate (bell-shaped) corolla is 3.5 to 4 cm (1.4 to 1.6 in) long and is reddish purple with pale yellow streaks. The style (the slender elongated part of the female reproductive organ) is deeply split, about half its length. The only other red-flowered fritillary in the vicinity, *Fritillaria recurva* or scarlet fritillary, has styles that are split only one-fourth to one-third their length (Gilkey 1951; Peck 1961; Meinke 1982).

Fritillaria gentneri is restricted to southwestern Oregon, where it is known only from scattered localities in the Rogue and Illinois River drainages in Josephine and Jackson Counties. *Fritillaria gentneri* occurs in dry, open woodlands of fir or oak at elevations below approximately 1,360 meters (m) (4,450 feet (ft)). The species is highly localized within a 48-kilometer (km) (30-mile (mi)) radius of Jacksonville Cemetery. Seventy-three percent of the known plants of *Fritillaria gentneri* are in a central cluster located within an 11-km (7-mi) radius of the Jacksonville Cemetery. The remaining plants occur as single individuals or occasional clusters of individuals sparsely distributed across the landscape.

We analyzed the status of this species and its population trend by dividing its range into a longitude-latitude grid with macro plots or cells as the finest unit of resolution. Each macro plot is 0.1 minute of latitude by 0.1 minute of longitude, or approximately 0.1 square mi (6.3 acres (ac) or 2.56 hectares (ha)). We numbered the macro plots to make them easy to locate on topographic maps, using a numbering system developed by Dr. Andrew F. Robinson Jr. (U.S. Fish and Wildlife Service 1998). *Fritillaria gentneri* was originally reported from 53 macro plots but currently is extant in only 45 (or 85 percent of the original number). It has been extirpated from 2 of the 40 macro plots in the central cluster around Jacksonville Cemetery and from 6 of the 13 occurrences outside of the central cluster of the species.

The rarity of *Fritillaria gentneri* was confirmed, to some extent, by information that landowners submitted to us in response to our proposal to list this plant as an endangered species (63 FR 13819). This proposal was publicized through outreach efforts and in a news story in the Daily Courier of Grants Pass. Twelve landowners informed us that they had a red fritillary on their lands that they believed was *Fritillaria gentneri.* The number of plants ranged from 1 to 125, with a total of 333 plants reported. Two landowners provided fresh flowering material (including material from the largest site), which in both cases was determined to be *Fritillaria recurva* (scarlet fritillary). At least half (179) of the 333 reported plants are likely to be *Fritillaria recurva.* Three landowners provided photographs. Only one of the photographs showed enough detail to allow identification of the plant, which was *Fritillaria recurva.* This species' flowers are quite similar to those of *Fritillaria gentneri* and the only reliable distinguishing character is the depth to which the style is split. *Fritillaria recurva* is much more widespread and abundant, but *Fritillaria gentneri* does co-occur with it. To confirm whether *Fritillaria gentneri* occurs at these 12 locations, field visits will be necessary during the flowering season (April–June).

It is difficult to get accurate counts of the number of non-flowering plants at a location for at least two reasons. Many of the plants remain dormant for several years and do not produce above-ground stems and flowers. Because a count for any site includes growing plants only, it does not count the dormant plants. Secondly, actively growing plants may be grazed early on in the growing season by deer, and thus do not set flower and are impossible to locate and census. One survey counted 60 flowering plants and 200 non-flowering plants (Rolle 1988b). Knowing exactly how many plants are present is less important than knowing the size of the breeding population, which is an important variable. For long-term genetic evolutionary flexibility, a breeding population needs to be greater than 500 plants (Falk and Hoslinger 1991). Even if all the new reports represent *Fritillaria gentneri,* the entire species would barely exceed the minimum number of reproducing plants needed for long-term genetic integrity. The minimum numbers of plants needed to ensure the species' long-term survival in the face of threats to its habitat are probably much greater.

Ownership information is currently available for 50 of the 53 total number of macro plots. Thirteen macro plots are on lands managed by the Medford District of the Bureau of Land Management (BLM). Two are on a right-of-way managed by the Oregon State Department of Transportation, District 8. Three are on lands managed by Southern Oregon University. Seven are on lands managed by the City of Jacksonville. The remaining 25 macro plots are privately owned land, so about half of this plant's current distribution (20 out of 45 macro plots with extant populations) is on private lands.

Estimated numbers of flowering plants in the 45 macro plots ranged from 1 (for 12 plots) to 100 (Pelton Road plot). The total number of flowering plants in the 45 macro plots is 340. The amount of habitat occupied within a macro plot varied from the space occupied by a single plant (1 square m or 10.75 square ft) to 1.2 ha (3 ac). The counts of flowering plants are likely to be very accurate because the plants are so easy to spot; however, no estimates are available of how many nonflowering or dormant plants might be in the same area.

Fritillaria gentneri exists in elevations ranging from approximately 180 to 1,360 m (600 to 4,450 ft). According to J. Kagan (Oregon Natural Heritage Program, Portland, Oregon, pers. comm.

1997), *Fritillaria gentneri* is found in three habitats—oak woodlands dominated by *Quercus garryana* (Oregon white oak); mixed hardwood forest dominated by *Quercus kelloggii* (California black oak), *Quercus garryana,* and *Arbutus menziesii* (madrone); and coniferous forests dominated by *Arbutus menziesii* and *Pseudotsuga menziesii* (Douglas-fir). Although there are thousands of acres of these three habitat types that range from Grants Pass, Oregon to south of the Oregon-California border, The Nature Conservancy classifies one of these three habitats, the oak woodland, as endangered throughout its range; the other two habitats are threatened. All three are threatened by urban and agricultural development and fire suppression.

Fritillaria gentneri typically grows in or on the edge of open woodlands with *Quercus garryana* and *Arbutus menziesii* as the most common overstory plants. *Pinus ponderosa* (western yellow pine) and *Pseudotsuga menziesii* are also frequently present. *Arctostaphylos viscida* (white-leaved manzanita), *Ceanothus cuneatus* (buckbrush), *Ceanothus velutinus* (snowbrush), *Cercocarpus betuloides* (plume tree), *Quercus sadleriana* (Sadler oak), and *Rhus diversiloba* (poison oak) are commonly encountered understory shrub species. Herbs are typical of those found in the Rogue Valley foothills—*Arabis subpinnatifida* (ashy rock cress), *Astragalus accidens* var. *hendersoni* (Rogue River milkvetch), *Bromus ciliatus* (fringed brome), *Dodecatheon hendersoni* (Henderson's shootingstar), *Festuca californica* (California fescue), *Festuca idahoensis* (Idaho fescue), *Fragaria vesca* var. *bracteata* (woods strawberry), *Fritillaria affinis* (mission bells), *Fritillaria recurva* (scarlet fritillary), *Lewisia* spp. (lewisia), *Lomatium utriculatum* (fineleaf biscuitroot), *Poa sandbergii* (Sandberg's bluegrass), *Ranunculus occidentalis* (western buttercup), *Romanzoffia suksdorfii* (Suksdorf's romanzoffia), *Senecio* spp. (groundsel), *Sidalcea* spp. (checker-mallow), *Stipa lemmonii* (Lemmon's needle grass), and *Vicia americana* (American vetch). *Fritillaria gentneri* can also grow in open chaparral/grassland habitat, which is often found within or adjacent to the mixed hardwood forest type, but always where some wind or sun protection is provided by other shrubs. It does not grow on extremely droughty sites. For unknown reasons, much apparently potential habitat within the species range is unoccupied.

Rolle (1988e) stated that *Fritillaria gentneri* often grows in places that have experienced human disturbance and eventually became revegetated (e.g., old road cuts, alongside trails, bulldozer routes, old mounds left from past mining or other earth-moving activities). At least 50 percent of the sites Rolle (1988e) documented exhibited signs of disturbance in the past. Rolle has not, however documented that earth-moving activity has spread bulblets. The species seems to require some infrequent but regular level of disturbance such as the historic pattern of fire frequency in the Rogue and Illinois River valleys. It is not an early colonizer of these sites but eventually takes advantage of the opening or edge effect created. It appears to be a mid-successional species in that it establishes after other plants have colonized a disturbed area, but before taller vegetation becomes established and shades it out.

Fritillaria gentneri is a perennial species that reproduces asexually by bulblets. The bulblets break off and form new plants. According to E. Guerrant (pers. comm. 1997), even though some *Fritillaria gentneri* plants may form fruits and seeds if pollinated, no good evidence exists that the seeds produced are fertile or viable. Hummingbirds or bumble bees are presumed to be the primary pollinators (E. Guerrant, *in litt.* 1998). Guerrant (1992) sampled eight clusters and found a few plants that had seeds, but obvious embryos were not documented. Guerrant stated that *Fritillaria gentneri* may be sterile, that the plant is largely reproducing asexually, and that the sexual reproduction of the plant needs to be better documented.

Previous Federal Action

Federal actions on *Fritillaria gentneri* began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Fritillaria gentneri* as a threatened species. We published a notice in the **Federal Register** on July 1, 1975 (40 FR 27823) of our acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act) and our intention to review the status of the plant taxa named therein.

We initially included *Fritillaria gentneri* as a ''category 2 candidate'' in a Notice of Review published on December 15, 1980 (45 FR 82510). Category 2 candidate species were taxa for which data in our possession indicated listing may be appropriate, but for which additional data on biological vulnerability and threats were needed to support a proposed rule. On September 30, 1993 (58 FR 51166), we published a Notice of Review upgrading this species to a category 1 status, meaning we had sufficient information on biological vulnerability and threats to support a proposal to list *Fritillaria gentneri* as an endangered or threatened species. Upon publication of the February 28, 1996, Notice of Review (61 FR 7605), we ceased using category designations and included *Fritillaria gentneri* as a candidate species. Candidate species are those for which we have on file sufficient information on biological vulnerability and threats to support proposals to list them as threatened or endangered species. We retained *Fritillaria gentneri* as a candidate species in the September 19, 1997, Review of Plant and Animal Taxa (62 FR 49398).

On March 23, 1998, we published in the **Federal Register** (63 FR 13819) a proposed rule to list *Fritillaria gentneri* as an endangered species. The processing of this final rule conforms with our Listing Priority Guidance published in the **Federal Register** on October 22, 1999 (64 FR 57114). The guidance clarifies the order in which we will process rulemakings. Highest priority is processing emergency listing rules for any species determined to face a significant and imminent risk to its well-being (Priority 1). Second priority (Priority 2) is processing final determinations on proposed additions to the lists of endangered and threatened wildlife and plants. Third priority is processing new proposals to add species to the lists. The processing of administrative petition findings (petitions filed under section 4 of the Act) is the fourth priority. The processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat will no longer be subject to prioritization under the Listing Priority Guidance. This final rule is a Priority 2 action and is being completed in accordance with the current Listing Priority Guidance. We have updated this rule to reflect any changes in information concerning distribution, status, and threats since the publication of the proposed rule.

Summary of Comments and Recommendations

In the March 23, 1998, proposed rule (63 FR 13819) and associated notifications, we requested all interested parties to submit factual reports or

information that might contribute to the development of a final listing decision. We contacted and requested comments from appropriate Federal and State agencies, county and city governments, scientific organizations, private land owners, industrial land owners, and other interested parties. Newspaper notices inviting public comments were published in the Oregonian (with statewide circulation) on May 1 and May 2, 1998.

During the comment period following the publication of the proposed rule, we received 18 written comments. Sixteen favored and two opposed the listing of *Fritillaria gentneri.* Several commenters provided information on the status of this plant at several sites and on threats, notably from *Centaurea solstitialis* (yellow star thistle) and herbicides used to control the thistle. The new information updated the information presented in the proposed rule and is incorporated into this final rule. Comments questioning or opposing the proposed rule have been grouped into issues for discussion.

Issue 1: One commenter opposed listing *Fritillaria gentneri* until a thorough search has been conducted for additional populations in order to get an accurate count of the total numbers of *Fritillaria gentneri.*

Our Response: The Act requires us to make listing decisions using the best available scientific and commercial data. Section 4 of the Act mandates that we consider the threats to the species based on the five listing factors (see the Summary of Factors Affecting the Species section of this rule). The information currently available is sufficiently complete and accurate and indicates that listing is appropriate. While more plants may exist, the range of *Fritillaria gentneri* is small, and the currently known number of flowering plants is extremely small. *Fritillaria gentneri* has been searched for by knowledgeable people for years, making it unlikely that a significant number of new *Fritillaria gentneri* are yet to be discovered. Because plants tend to suffer mass mortality from random environmental events (such as fires, landslides, or shading out by encroaching trees), plants are usually considered safe only when they occur in large numbers, usually thousands of individual plants. Finding even several hundred new plants would not greatly change the current status. Information submitted by 12 landowners during the comment period on red fritillary plants that might be *Fritillaria gentneri* (as detailed in the ''Background'' section of this rule) did not confirm additional plants, although it would be worthwhile to arrange field visits to the sites if the landowners are interested. The landowners, for the most part, indicated that they are protecting their plants. However, none of the landowners indicated that they were managing the habitat in such a manner as to slow or reverse the threat from shading of over-story trees as the forests mature. Without some sort of disturbance to create habitat within these oak woodlands, eventually *Fritillaria gentneri* will disappear as the forests mature. Thus, if additional occupied habitat is verified, it will probably be facing successional threats and would not reduce the need for listing *Fritillaria gentneri.*

Issue 2: One commenter opposed the listing because *Fritillaria gentneri* was already listed under the State of Oregon's Endangered Species Act. The commenter also questioned why the U.S. Fish and Wildlife Service is involved with plants and listing *Fritillaria gentneri.*

Our Response: We considered all the existing regulatory mechanisms applicable to the species *Fritillaria gentneri* on private, State, and Federal lands throughout its range. These issues are discussed in detail in this rule under the ''Summary of Factors Affecting the Species'' (Factor D) section of this rule. We conclude that existing regulatory mechanisms do not currently provide adequate protection for this plant. The Federal listing of this species will protect it from a variety of unauthorized activities including removal or reduction to possession from areas under Federal jurisdiction or in violation of a State law, including criminal trespass. The Federal Endangered Species Act provides protection to listed plant species when landowners seek Federal permits, funding, or Federal loans for a land development project or other activities that may affect the species. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat.

The Oregon Endangered Species Act directs the Oregon Department of Agriculture (ODA) to maintain a strong program to conserve and protect native plant species classified by the State as threatened or endangered. The ODA is able to regulate the import, export, or trafficking of State-listed plant species when they are in transit. However, the ODA's ability to protect plant populations is limited to ''land owned or leased by the state, or for which the state holds a recorded easement.'' Nothing in the Oregon Endangered Species Act is intended to require the owner of any commercial forest land or other private land or Federal agencies to take action to protect a threatened or endangered plant species on their lands. Thus, the protection provided by the State listing for *Fritillaria gentneri* extends only to those plant populations on State lands, which includes only 12 macro plots or less than 24 percent of the macro plots occupied by *Fritillaria gentneri.* As a result, *Fritillaria gentneri* occurring on private lands receives no protection from their State status as endangered. The only sites occupied by this plant that come under the protection of the Oregon Endangered Species Act are at the Log Town Cemetery on an Oregon Department of Transportation right-of-way, Southern Oregon University lands, and lands managed by the City of Jacksonville. Listing *Fritillaria gentneri* under the Federal Endangered Species Act provides protection to all occurrences of *Fritillaria gentneri.*

Additionally, the trade prohibitions and permit requirements of the Federal Endangered Species Act provide additional protection against interstate trade in this plant. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, the Act prohibits malicious damage or destruction of endangered plants on Federal lands or the removal, cutting, digging up, damaging, or destroying of such plants in knowing violation of any State law or regulation, including criminal trespass law. Certain exceptions to the prohibitions apply to our agents and State conservation agencies.

As to why we are involved with plants and listing *Fritillaria gentneri,* Congress passed the Act to provide protection for animal *and* plant species that are threatened or endangered with becoming extinct. The Act mandates the Secretary of the Interior to determine whether any species is endangered or threatened. The Director of the Service is responsible to the Secretary of the Interior for the administration of the Act (16 U.S.C. §§ 1531–1544). Additional information about our involvement with plants can be found in the ''Previous Federal Action'' section of this rule.

Peer Review

In accordance with our peer review policy published July 1, 1994 (59 FR 34270), we solicited the expert opinions of appropriate and independent specialists regarding pertinent scientific or commercial data relating to the biological and ecological information for *Fritillaria gentneri.* Comments provided by Richard Maudlin, Barbara Mumblo (a private botanical consultant in Southwest Oregon), Dr. Ed Guerrant (Conservation Director, the Berry Botanic Garden), and the Klamath Siskiyou Wildlands Center supported our position that *Fritillaria gentneri* was endangered, and their comments were incorporated into this final rule.

Summary of Factors Affecting the Species

Section 4 of the Act and the regulations (50 CFR Part 424) that implement the listing provisions of the Act lay out the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Fritillaria gentneri* (Gentner's fritillary) (= Mission-bells) are as follows:

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

In the following discussion, the term ''development'' includes housing construction, such as driveway placement, lots for sale, cemetery expansion, trail maintenance, road widening, enlarging a landfill, power line maintenance, water system construction, and agricultural conversions.

Fritillaria gentneri is found only in the rural foothills of the Rogue and Illinois River valleys in Jackson and Josephine Counties, Oregon. Within this range, the plant occurs as lone individuals or small clusters of individuals sparsely distributed across the landscape. Together these individuals and clusters are thought to form either one single population of approximately 340 flowering plants or a few smaller populations and isolated individuals. As stated previously, this species was originally documented to occur in 53 locations (macro plots). Between 1941 and the present, the plant has been extirpated from 8 of 53 macro plots. Three locations, Grants Pass, Medford, and Murphy, were vague locations and have never been relocated since the original collections by Gentner (1941) and Gilkey (1951). We believe that the populations at these three locations were probably destroyed by development. Since 1982, Kagan and Rolle documented construction for homes, schools, associated roads, driveways, and agricultural conversions that destroyed all the plants at five locations that include Lyman Mountain (Kagan 1982g and pers. comm. 1997; Rolle 1988f), Merlin (Kagan 1982a and pers. comm. 1997), Ramsey Road (Kagan 1982f and pers. comm. 1997), State Highway 238 (Gentner 1948, Kagan 1982c and pers. comm. 1997), and Winona (Kagan 1982b and pers. comm. 1997).

The threat of habitat loss to *Fritillaria gentneri* is evident when both the size and the status of the scattered clusters throughout the species' range are examined. Cluster sizes range from 1 plant to 100. Of the 45 macro plots currently occupied by *Fritillaria gentneri,* only 8 are in an area of habitat equal to or greater than 0.4 ha (1 ac). Many are in areas smaller than 0.04 ha (0.1 ac) (Service 1997). With such limited area, a small amount of disturbance could extirpate all of the plants in a local area.

Habitat loss is the main threat to this species. Habitat loss due to ongoing or future development may occur at 42 percent of the occupied sites (19 macro plots—all within the central core area). Ongoing development accounts for 13 percent (6 macro plots) of the anticipated habitat loss with all the development but Pelton Road being in the central core area. Future development may include loss of habitat for the other 29 percent (13) of the occupied sites, with all of this occurring within the central core area (U.S. Fish and Wildlife Service 1997).

Ongoing development is threatening *Fritillaria gentneri* in six locations. Rolle (1988b) noted that at Pelton Road, outside the core area, habitat was being destroyed as he was sampling the cluster. On that site visit, Rolle (1988b) reported 60 flowering plants and 200 nonflowering plants, noting that it was the best example of *Fritillaria gentneri* that he had seen. During his observation, he noted that brush was being piled upon the plants for a road-widening project. Of the 48 plants flagged, 23 individuals were missing when Rolle (1988d) returned to collect seeds. In 1990, Guerrant (1990) reported only 50 to 100 plants at the Pelton Road site. According to Wayne Rolle (U.S. Forest Service (Forest Service), Ashland, Oregon, pers. comm. 1997), one-quarter of the cluster has been destroyed as a result of road widening. It is not known what happened to the other missing plants. Within the core area, at the Jackson County Landfill, at least half of the *Fritillaria gentneri* plants in one of the five sites at the dump were bulldozed as a result of road construction and dump expansion in 1988 (Rolle 1988d). Near the entrance to Jackson County Landfill, Rolle (1988a) reported four plants present. In 1988, Rolle (1988d) flagged three of these plants and reported that two of the plants were bulldozed. Guerrant (pers. comm. 1997) reported that the dump site is still expanding toward other *Fritillaria gentneri* plants, but the expansion had stopped just short of destroying the rest of the plants.

Future development is possible for about 13 locations (macro plots) of the species (29 percent of the total) from the central core area that includes plants growing at Bellinger Hill, Britt Grounds, Jacksonville Cemetery, Placer Hill Drive, and Sterling Creek Road. Rolle (pers. comm. 1997) stated that some of the Bellinger Hill plants occurred in a private backyard. At the time of Rolle's sighting, that section of the backyard was not maintained, therefore allowing *Fritillaria gentneri* to grow. The other plants were in an area where housing development was occurring (Rolle pers. comm. 1997). On Britt Grounds, 110 plants of *Fritillaria gentneri* were documented in 1993 (Tomlins 1993) on 39 ha (97 ac) of land managed by BLM or Southern Oregon University. Two development threats face the Britt Grounds plants, trail construction and construction of a city waterline. Trail construction will affect all of the plants, whereas the waterline construction will impact half of the plants. Maxxon (1985) reported that there were approximately 50 plants in the Jacksonville Cemetery area, about half of them (18 to 24 plants) on private land east of the northeast corner of the cemetery property. Kagan (pers. comm. 1997) reported that the city is currently developed up to the eastern side of the cemetery, and probably those 18 to 24 plants have been lost. The property on the eastern side of the cemetery, part of an 1851 land grant, has been divided into 2 to 4–ha (5 to 10–ac) parcels, and some homes have been built and more are planned where *Fritillaria gentneri* currently exists. One of these areas has already been excavated for a home site (Maudlin *in litt.* 1998). Highway 238 also is proposed to extend through the area where *Fritillaria gentneri* grows (Maudlin *in litt.* 1998). Within the cemetery proper, Maxxon (1985) mapped 12 plants growing on cemetery plots. As the cemetery expands, additional plants may be destroyed during excavation; at least eight plants mapped by Maxxon (1985) currently

grow on unused burial plots. West and uphill from the cemetery, Rolle (1988g) documented approximately 15 plants at scattered stations along the trail system. Any additional trail construction may destroy some of these plants. In 1988, Rolle (1988g) found six flowering plants of *Fritillaria gentneri* along Placer Hill Drive and flagged five of the plants. On returning, he discovered that a new driveway was scheduled to be constructed that would go through the Placer Hill Drive location (Rolle 1988d). In 1992, some plants remained on the site (Guerrant 1992), but today the property is for sale (Rolle, pers. comm. 1997). The property across the street was also for sale (Guerrant, pers. Comm. 1997). Similarly, Rolle (pers. comm. 1997) reported that the Sterling Creek plants occur on 40.4 square m (less than 0.01 ac) and that this area is threatened by development. The most threatened areas are on private lands where development poses an immediate threat to the population. Of the 45 extant macro plots, 20 occur on private lands and are unlikely to persist over the long term.

Desirable habitat on public lands is still being removed. Joan Seevers (BLM, Medford, Oregon, pers. comm. 1997) confirmed that of the 13 sites containing plants on BLM lands, 7 were threatened with logging. Tomlins (1993) stated that salvage logging had disturbed some of the plants at Britt Grounds. Seevers (pers. comm. 1997) also reported that Britt Grounds and Sterling Mine ditch had trails near the cluster of plants. Hikers, bikers, and horseback riders all use the trails and have the potential to trample and pick the plants. At the Antioch Road 2 location, Henshel (1994c) noted that the plants were located on both sides of a dirt bike trail.

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

Many species of *Fritillaria* are cultivated. According to Gilkey (1951), *Fritillaria gentneri* was successfully grown in the Gentner family garden and the Gentners saw the species being used in flower arrangements. This native lily is quite attractive, and furthermore, the genus *Fritillaria* has many species (mostly from Eurasia) that are widely cultivated, including guinea flowers and crown imperial. ''Bulb fanciers the world over worship at the feet of this captivating clan of lily-like plants'' (Kruckeberg 1996). Kruckeberg also comments that ''the collecting of bulbs can no longer be countenanced as fritillaries are fast disappearing from their native habitats,'' and he recommended propagation from seed.

The rarity of *Fritillaria gentneri* may attract horticulturists seeking to cultivate rare species. Furthermore, the viability of the seed set of *Fritillaria gentneri* is very poor, and the capsules tend to be eaten by wildlife before seed can mature (Rolle 1988d). Lack of viable seed increases the incentive for collectors to dig the bulbs. Twenty-two (43 percent) of the known sites had 3 or fewer individuals. Because the species occurs in small, isolated clusters, a collector could decimate an entire clump in one gathering, extirpating the plant from that area. Roadside populations of *Fritillaria gentneri* are especially vulnerable to collection. Kagan (1982d), Rolle (1988c; pers. comm. 1997), and Guerrant (pers. comm. 1997) documented that 40 percent of the total estimated number of plants (136) have a good potential for roadside collection. The plants were visible from the road at Logtown Cemetery, Paradise Ranch Road, Pelton Road, Placer Hill Drive, Poorman's Gulch, Sailor Gulch, Sterling Creek Road, and Wagon Trail Drive and, when flowering, could attract attention (Guerrant pers. comm. 1997). Collecting has been documented in Britt Grounds (Tomlins 1993, Seever pers. comm. 1997) along the trails. Disseminating specific, sensitive location records can encourage illegal collection (M. Bosch, Forest Service, *in litt.* 1997; B. Mumblo, *in litt.* 1998). Overcollection of other lilies such as *Lilium occidentale* (western lily), a federally listed endangered species (59 FR 42171), has been documented by Ballantyne (1980) and Schultz (1989).

C. Disease or Predation

Fritillaria gentneri plants suffer from both disease and predation, reducing their numbers and productivity. Secondary fungal infections were present to some degree at the Cady Road, Jacksonville Cemetery, Jackson County Dump, Pelton Road, Placer Hill Drive, and Wagon Trail Drive sites (Rolle 1988d). Many of the plants that were tagged for seed collection by Rolle had the capsules eaten by wildlife before the seed capsules matured (Rolle 1988d)—of the 14 plants tagged at Wagon Trail Drive, 9 plants had no capsules; at Cady Road, 4 of 4 flagged plants had the capsules bitten off; at the Jacksonville Cemetery, 6 of 6 flagged plants had no mature capsules found on any part of the plant; at Pelton Road, 19 of 48 flagged plants were knocked down, eaten, or did not develop; and at Placer Hill Drive, 1 of 5 flagged plants had the capsules bitten off.

D. The Inadequacy of Existing Regulatory Mechanisms

In 1963, the protection of Oregon's natural botanical resources was initiated with the passage of the Oregon Wildflower Law (ORS 564.010–564.040). This law was designed to protect showy plants such as lilies, shooting stars, orchids, and rhododendrons from collection by horticulturists interested in these species' domestication. The law prohibits the collection of wildflowers from within 60.9 m (200 ft) of a State highway. The Oregon Wildflower Law carries minimal penalties and is rarely enforced. As a means of protecting *Fritillaria gentneri,* it has minimal effectiveness.

In 1987, Oregon Senate Bill 533 (ORS 564.100) was passed to augment the legislative actions available for the protection of the State's threatened and endangered species, both plant and animal. This bill, known as the Oregon Endangered Species Act, mandated responsibility for threatened and endangered plant species in Oregon to the ODA. The Oregon Endangered Species Act directs the ODA to maintain a strong program to conserve and protect native plant species threatened or endangered with extinction.

State-listed as endangered, *Fritillaria gentneri* receives protection on State-managed lands under the Oregon Endangered Species Act. Although the ODA is able to regulate the import, export, or trafficking of State-listed plant species (under ORS 564.120), their ability to protect plant populations is limited to State-owned or State-leased lands. Private land owners are not required to protect State-listed species. As a result, *Fritillaria gentneri* occurring on private lands receives no protection from its State status as endangered. The only sites with this plant that fall under protection of the Oregon Endangered Species Act are at the Log Town Cemetery on an Oregon Department of Transportation right-of-way, Southern Oregon University lands, and lands managed by the City of Jacksonville.

BLM manages lands occupied by *Fritillaria gentneri.* Although no conservation agreement has been developed with the BLM that specifically notes *Fritillaria gentneri,* the species was given some protection through a general conservation agreement that applies to all Federal candidate species. As noted in factor A above, however, activities on BLM lands threaten the plant.

Fritillaria gentneri is classified by the Oregon Natural Heritage Program as a G1 category species, which identifies

this species as one that is threatened with extinction throughout its entire range. This designation provides recognition but no protection.

There are several other regulations enacted by the State of Oregon that provide protective measures for federally listed threatened and endangered species. Oregon Administrative Rules (OAR), Chapter 340, Division 94 (OAR 340–094–0030) addresses location restrictions for solid waste and municipal solid waste landfills. OAR Chapter 340, Division 95 (OAR 340–095–0010) addresses location restrictions for disposal sites on nonmunicipal land other than municipal solid waste landfills. Both OAR 340–094–0030 and OAR 340–095–0010 state that no person shall establish, operate, expand or modify a landfill in a manner that will cause or contribute to the actual or attempted—(1) harming collecting, or killing of endangered or threatened species of plants, fish, or wildlife; (2) direct or indirect alteration of critical habitat that appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat. Five of the 45 macro plots (at least 27 plants) of *Fritillaria gentneri* would fall under the protective measures of OAR 340–094–0030.

OAR 141–089–0015 General Authorization for Certain Road Construction Projects provides protective measures by stating road construction activities (*e.g.,* repairing, widening, replacing, realigning) shall not adversely affect State or Federal threatened or endangered species or their critical habitat. The population of *Fritillaria gentneri* along State highway 238 is covered by the protective measures of OAR 141–089–0015.

OAR 635–415–0030 Fish and Wildlife Habitat Mitigation Goals and Standards provides protection for ''Habitat Category 1.'' ''Habitat Category 1'' is a State of Oregon classification for habitat that is of exceptional value for an evaluation species and is irreplaceable and unique; or that is essential habitat of any State of Oregon listed threatened or endangered species; or that is the critical habitat as defined in the Act of any federally listed threatened or endangered species. OAR 635–415–0030 states that the mitigation goal is no loss of either habitat units or habitat value and that the Oregon Department of Fish and Wildlife shall act to protect ''Category 1'' habitats by recommending or requiring—(1) avoidance of impacts through alternatives to proposed development action, or (2) no authorization of the proposed development action if impacts cannot be avoided. Thirty-two macro plots of *Fritillaria gentneri* would be protected under this State law.

Despite being currently State-listed as endangered and coverage from other State regulations, populations of *Fritillaria gentneri* on private lands are still being destroyed. Privately held sites constitute a significant portion of this species' range and play a substantial role in its continued existence.

E. Other Natural or Manmade Factors Affecting its Continued Existence.

Fire suppression is causing *Fritillaria gentneri*'s preferred open oak woodland habitat to become more thickly wooded and less grassy, excluding the species. At the same time, the increase of homes in the area makes prescribed burning difficult. According to Rolle (pers. comm. 1997) and Kagan (pers. comm. 1997), *Fritillaria gentneri* grows best in forest openings. Closure of the forest canopy will shade the plants. The forest canopy at the Wagon Trail site is currently being closed by encroaching Douglas-fir and madrone, threatening the continued occupancy of this macro plot by its 14 *Fritillaria gentneri* plants (Rolle, pers. comm. 1997).

Oak woodland requires a frequent, low-intensity fire management regime to maintain the open canopy. Southwestern Oregon averages 500 dry lightening strikes a month during drought conditions in the summer, creating a natural fire frequency of every 12 to 15 years. As the area developed, 50 to 60 years of fire suppression ensued. This suppression essentially transformed the traditional oak woodlands with a grassy understory to oak woodlands with a shrub understory. With the current trend toward rural development, restoring fire to the habitat has now become increasingly difficult. Therefore, much of the habitat of *Fritillaria gentneri* has not been removed but has changed to densely closed woodland with a dry shrub understory. Prescribed fire would be a good tool in managing for *Fritillaria gentneri* on BLM lands. However, given that fire suppression will likely continue, the thickening shrub understories pose a threat to *Fritillaria gentneri* on both private and BLM lands.

Another threat to *Fritillaria gentneri* is the possibility of decreased vigor and viability due to individual plants being distributed as separated individuals or in clusters ranging in size only up to 100 plants. Small numbers increase the risk from random losses of plants, and small numbers combined with widely separated individuals increase the risk of random loss of genetic diversity owing to founder effects or inbreeding. If a population suffers from inbreeding depression, then its viability may be compromised. The effects of inbreeding in populations have been used to recommend a general effective minimal viable population (MVP) of 50 individuals (Falk and Hoslinger 1991) to maintain genetic diversity. For long-term evolutionary flexibility, the authors recommend a MVP of 500. That means that any population below 50 is subject to inbreeding depression over the short-term and any population under 500 will suffer over the long-term. Even though the size at which a population begins to face severe inbreeding depression is still contested, the negative genetic effects of this phenomenon to a small population of 340 plants become difficult to ignore. Guerrant (pers. comm. 1997) stated that he sampled eight clusters of *Fritillaria gentneri* plants and did not find one embryo. He stated that the plants are probably sterile. The plant is largely reproducing asexually, which could be a result of the small population size.

With only 1 of the 45 sites containing 100 flowering individuals, 4 sites having 11 to 34 flowering individuals, and the remaining 40 sites having only 10 or fewer flowering individuals of *Fritillaria gentneri,* the threat of extinction due to naturally occurring demographic and environmental events reduces the viability of the species as a whole. Because most *Fritillaria gentneri* sites occupy small areas, naturally occurring environmental events could also play a role in extirpation. Small clusters can disappear with one environmental event, such as erosion. The sites are small and isolated from each other due to habitat fragmentation. This isolation could inhibit re-colonization to other suitable areas and could result in a permanent loss of localized occurrences once they fall below a critical level.

Herbicide spraying could extirpate small, localized occurrences along roadsides. Approximately 29 percent (13) of the plant occurrences (macro plots) are reported along roadsides and could be affected or potentially extirpated by spraying or other roadside maintenance activities. In particular, herbicides could potentially to be used to control *Centaurea solstitialis* (yellow star thistle), a noxious weed that is increasingly abundant in southwestern Oregon, often occurring on roadsides and brought in on equipment with new housing development to locations where *Fritillaria gentneri* occur or could occur (B. Mumblo in litt. 1998).

In developing this final rule, we have carefully assessed the best scientific and commercial information available

regarding the past, present, and future threats faced by this species. Based on this evaluation, we find that *Fritillaria gentneri* should be listed as endangered. This plant is found only in two counties, Jackson and Josephine, in southwestern Oregon. Habitat loss is the main threat to this species. Habitat loss due to ongoing or future development may occur at 42 percent (19) of the central core area's occupied sites. This taxon is threatened by residential development, agricultural activities, forestry activities, and road and trail improvement. Other threats include offroad vehicle use, collecting the species for gardens, disease, and predation. Small population size and limited distribution make this taxon particularly vulnerable to extinction from reduced reproductive vigor or from random environmental events. Because this taxon is in danger of extinction throughout all or a significant portion of its range, it meets the definition of endangered as defined by the Act. Therefore, the determination of endangered status for *Fritillaria gentneri* (Gentner's fritillary) is appropriate.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act, as amended, as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the provisions of section 4 of the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures that are necessary to bring the species to the point at which the measures provided pursuant to the Act are no longer necessary.

We are not at this time making a critical habitat determination for *Fritillaria gentneri.* The Final Listing Priority Guidance for FY 2000 (64 FR 57114) states, that the processing of critical habitat determinations (prudency and determinability decisions) and proposed or final designations of critical habitat ''will no longer be subject to prioritization under Listing Priority Guidance. Critical habitat determinations, which were previously included in final listing rules published in the **Federal Register**, may now be processed separately, in which case stand-alone critical habitat determinations will be published as notices in the **Federal Register**. We will undertake critical habitat determinations and designations during FY 2000 as allowed by our funding allocation for that year.'' As explained in detail in the Listing Priority Guidance, our listing budget is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Deferral of the critical habitat determination for *Fritillaria gentneri* will allow us to concentrate our limited resources on higher priority critical habitat and other listing actions, while allowing us to put in place protections needed for the conservation of *Fritillaria gentneri* without further delay. The proposed critical habitat determination for *Fritillaria gentneri* will be published in the **Federal Register** subsequent to this final rule.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm of animals and certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is listed as endangered or threatened and with respect to its critical habitat, if any is designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. The principal Federal agency expected to have involvement with *Fritillaria gentneri* is the BLM, which manages many of the sites where this species occurs.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of Section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, the Act prohibits malicious damage or destruction of endangered plants on Federal lands or the removal, cutting, digging up, damaging, or destroying of such plants in knowing violation of any State law or regulation, including criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 for endangered plants also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. We anticipated that few trade permits would ever be sought or issued for *Fritillaria gentneri* because the species is not common in cultivation or in the wild.

Our policy, published in the **Federal Register** (59 FR 34272) on July 1, 1994, is to identify to the maximum extent practicable when a species is listed those activities that would or would not be a violation of section 9 of the Act. Such information clarifies the potential impacts of a species' listing on activities within its range.

We believe that, based on the best information available at this time, the following actions will not likely result in a violation of section 9, provided these activities are carried out in accordance with existing laws and regulations, including State laws and regulations, and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (*e.g.,* grazing management, agricultural conversions, flood and erosion control, residential development, recreational trail development, road construction, hazardous material containment and cleanup activities, prescribed burns, pesticide/herbicide application, construction or maintenance of pipelines or utility lines), when conducted in accordance with any consultation under section 7 of the Act;

(2) Casual, dispersed human activities on foot or horseback (*e.g.,* birding,

sightseeing, photography, camping, or hiking);

(3) Activities on private lands that do not require Federal authorization and do not involve Federal funding, such as grazing management, agricultural conversions, flood and erosion control, residential development, road construction, and pesticide/herbicide application when consistent with label restrictions;

(4) Residential landscape maintenance, including the clearing of vegetation around one's personal residence as a firebreak.

We believe that the following might potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Collection, damage, or destruction of *Fritillaria gentneri* on Federal lands without a Federal permit. *Fritillaria gentneri* occurs on BLM lands.

(2) Collection, damage, or destruction of this species on non-Federal land if conducted in knowing violation of Oregon State law or regulations, or in violation of Oregon State criminal trespass law. The Oregon State Endangered Species Act protects *Fritillaria gentneri* on State lands or rights-of-way and also prohibits import, export, or trafficking of this species.

(3) Interstate or foreign commerce and import or export without previously obtaining an appropriate permit. Permits are available for purposes of scientific research and enhancement or survival of the species.

Questions regarding whether specific activities will violate section 9 of the Act should be directed to the Field Supervisor of our Oregon State Office (see **ADDRESSES** section). Requests for copies of the regulations for listed plants and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Permits Branch, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

National Environmental Policy Act

We have determined that we do not need to prepare Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any information collection requirements for which Office of Management and Budget (OMB) approval is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). An information collection related to the rule pertaining to permits for endangered and threatened species has OMB approval and is assigned clearance number 1018–0094. 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. This rule does not alter that information collection requirement.

References

A complete list of all references cited in this rule, as well as others, is available upon request from our Oregon Fish and Wildlife Office (see **ADDRESSES** section).

Author. The primary author of this final rule is Andrew F. Robinson Jr., botanist, U.S. Fish and Wildlife Service, Oregon Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Final Regulation Promulgation

For the reasons outlined in the preamble, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

2. Amend § 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Fritillaria gentneri	Gentner's fritillary	U.S.A. (OR)	Liliaceae	E	672	NA	NA
*	*	*	*	*	*	*	

Dated: November 2, 1999.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 99–32021 Filed 12–9–99; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 64, No. 237
Friday, December 10, 1999

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV00–989–1 PR]

Raisins Produced From Grapes Grown in California; Changes in Reporting Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on changes to the reporting requirements specified under the administrative rules and regulations of the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). This rule would make minor changes to two reports submitted by handlers regarding the receipt and disposition of non-California raisins (raisins produced from grapes grown outside California). The Committee uses these reports to track non-California raisins and help ensure that only California raisins are used in programs authorized under the order. These changes would reduce the reporting burden on handlers and provide the Committee with better information on non-California raisins.

DATES: Comments must be received by February 8, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; Fax: (202) 720–5698; or E-mail: moab.docketclerk@usda.gov. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, or Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This proposal invites comments on changes to the reporting requirements specified under the order. This rule would make minor modifications to two reports submitted by handlers regarding the receipt and disposition of non-California raisins. The Committee collects these reports to track non-California raisins and help ensure that only California raisins are used in programs authorized under the order. These changes would reduce the reporting burden on handlers and provide the Committee with better information on non-California raisins. This action was unanimously recommended by the Committee at a meeting on November 10, 1999.

Section 989.73(d) of the order provides authority for the Committee, with the approval of the Secretary, to request handlers to furnish to the Committee such other information as may be necessary to enable it to exercise its powers and perform its duties. Handlers are required to submit various reports regarding California raisins, including receipts, disposition, transfers to other handlers, and the like. This information is used by the Committee in making various program decisions such as those regarding volume regulation and the handler assessment rate for funding program activities.

In addition, § 989.173 requires handlers to report to the Committee their receipt and disposition of raisins produced from grapes grown outside the State of California. Authority to collect information on raisins other than those produced in California was added to the regulations in 1990 to help ensure that only California raisins are used in various programs operated under the order.

For example, an export program is authorized under the order to promote the sale of California raisins in export markets. This program is usually in effect when volume regulation is implemented under the order. When volume regulation is in effect, a certain

percentage of the crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (or reserve) for the account of the Committee. Under the export program, handlers may receive raisins, at a reduced price, or cash back from the reserve pool to blend down the cost of the exported raisins, allowing handlers to be price competitive in export markets (prices in export markets are generally lower than the domestic market). The Committee wants to ensure that only California raisins are utilized in this program.

Paragraph (b)(7) of § 989.173 requires handlers to report receipts of non-California raisins. This information is reported on Form No. 500 and is due to the Committee on the eighth day of each month. Currently, handlers must categorize the net weight (pounds) of such raisins received as either natural condition (raw product) or packed (processed raisins) for the current month as well as a cumulative quantity from August 1, the beginning of the crop year.

The Committee recommended that such receipts not be categorized as natural condition or packed. This information is contained within other supporting documentation that handlers must also submit with their receipt report. Thus, the Committee would like to eliminate this duplication.

Paragraph (c)(3) of § 989.173 requires handlers to report the disposition of non-California raisins. This information is reported on Form No. 501 and is also due to the Committee on the eighth day of each month. Currently, handlers must report whether such raisins were disposed of in cartons, bags, or as bulk raisins. However, Committee staff has not found these categories useful in tracking non-California raisins. Thus, the Committee recommended eliminating this requirement.

In addition, the Committee recommended adding the requirement that handlers report the area of origin (country or state) of non-California raisins on the disposition report. Area of origin would help Committee staff match the disposition reports with the receipt reports, which already ask for area of origin. The Committee would thus be better able to track the inventory of non-California raisins.

These minor changes recommended by the Committee would reduce the reporting burden on handlers receiving and disposing of non-California raisins. Requiring handlers to report on their disposition form the origin of non-California raisins would allow the Committee to better track the inventory of such raisins. Accordingly, appropriate changes are proposed to paragraphs (b)(7) and (c)(3)(iv) of § 989.173.

Initial Regulatory Flexibility Analysis and the Paperwork Reduction Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000, excluding receipts from any other sources. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities.

This rule would change the reporting requirements specified in paragraphs (b) and (c) of § 989.173 regarding the receipt and disposition, respectively, of raisins produced from grapes grown outside the State of California. Handlers would no longer have to report to the Committee whether such raisins were received as natural condition or packed raisins, nor would handlers have to report whether such raisins were disposed of in cartons, bags or as bulk raisins. Handlers would have to report additional information, specifically, the area of origin (country or state) of such raisins on their disposition reports. Authority for these changes is provided in § 989.73(d) of the order.

Regarding the impact of the proposed action on affected entities, this action would reduce, in the aggregate, the reporting and recordkeeping burden on handlers who receive and dispose of non-California raisins. The Committee estimates that 11 handlers receive and dispose of non-California raisins each year. It is estimated that it would take each handler about 4 minutes to complete each revised receipt report (1 minute less than that required for the current receipt report). The total annual burden for such receipt reports would be reduced from 11 hours to about 8.8 hours. Furthermore, it is estimated that it would take each handler about 5 minutes to complete each revised disposition report (the same as required for the current disposition report). The total annual burden for such disposition reports would remain at about 11 hours.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements contained in this rule are being submitted to the Office of Management and Budget. Existing requirements have been assigned OMB No. 0581–0178. As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

An alternative to this action would be to not make the recommended reporting changes. However, the Committee determined that it would be best to proceed with its recommendation to reduce the reporting burden on handlers and obtain better information on tracking non-California raisins.

In addition, the Committee held an Administrative Issues Subcommittee meeting on November 9, 1999, where this issue was deliberated. This meeting and the Committee's meeting on November 10, 1999, were public meetings widely publicized throughout the raisin industry. All interested persons were invited to attend the meetings and participate in the industry's deliberations. Finally, interested persons are invited to submit information on the regulatory and informational impacts of these changes on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following web site: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 60-day comment period is provided to allow interested persons to respond to this proposal. All written comments

timely received will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is proposed to be amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. In § 989.173, the second sentence in paragraph (b)(7) and paragraph (c)(3)(iv) are revised to read as follows:

§ 989.173 Reports.

* * * * *

(b) * * *

(7) * * * This report shall include: The varietal type of raisins received; the net weight (pounds) of raisins received for the current month as well as a cumulative quantity from August 1; and the state or country where the raisins were produced. * * *

(c) * * *

(3) * * *

(iv) The area of origin (state or country) of the raisins shipped.

* * * * *

Dated: December 6, 1999.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 99–32011 Filed 12–9–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–04–AD]

Airworthiness Directives; Eurocopter France Model SE.3160, SA.316B, SA.316C, SA.319B, SA330F, SA330G, SA330J, SA341G, and SA342J Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) applicable to Eurocopter France Model SE.3160, SA.316B, SA.316C, SA.319B, SA330F, SA330G, SA330J, SA341G, and SA342J helicopters. This proposal would require inspecting each inflation head and union nut on certain emergency flotation gear nitrogen cylinders and replacing each cracked inflation head with an airworthy inflation head. This proposal is prompted by the discovery of cracked inflation heads during routine maintenance inspections of emergency flotation systems. The actions specified by the proposed AD are intended to prevent an emergency flotation gear nitrogen cylinder from exploding with resultant high velocity shrapnel, which could cause airframe damage or personal injury and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before February 8, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–04–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 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, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

FOR FURTHER INFORMATION CONTACT: Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, 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. 99–SW–04–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 Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–04–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

The Direction Generale De L'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on Eurocopter France Model SE.3160, SA.316B, SA.316C, SA.319B, SA330F, SA330G, SA330J, SA341G, and SA342J helicopters. The DGAC advises of several occurrences of cracks due to stress corrosion on the inflation heads of certain nitrogen cylinders.

Eurocopter France has issued Eurocopter Service Bulletin (SB) Nos. 05.19, applicable to the Model AS341 and AS342 series helicopters; 05.58 applicable to the SA330 series helicopters; and 05.66 applicable to the Model SA316 and SA319 series helicopters, all Revision 3, all dated May 4, 1998, which specify inspecting and replacing each cracked inflation head, part number (P/N) 74929, with no serial number (S/N) or with S/N's lower than 12000; and each union nut, P/N's 75441 and 75834, on emergency flotation gear nitrogen cylinders, P/N ARZ 74921, with an airworthy inflation head made from AU 2GN having a S/N equal to or greater than 12000. The DGAC classified these SB's as mandatory and issued AD's 80–062–041(A) R2, 80–063–030(A) R2, and 80–061–028(A) R2, all dated July 15, 1998, to assure the continued airworthiness of these helicopters in France.

These helicopter models are manufactured in France and are type certificated for operation in the United

States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, France has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of these type designs 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 France Model SE.3160, SA.316B, SA.316C, SA.319B, SA330F, SA330G, SA330J, SA341G, and SA342J helicopters of the same type designs registered in the United States, the proposed AD would require inspecting and replacing each cracked inflation head, P/N 74929, with no S/N or with S/N's lower than 12000; and each union nut, P/N's 75441 and 75834, on emergency flotation gear nitrogen cylinders, P/N ARZ 74921, with an airworthy inflation head having a S/N equal to or higher than 12000. The actions would be required to be accomplished in accordance with the SB's described previously.

The FAA estimates that 114 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per helicopter to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The required parts would cost $2,138 for each helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $271,092.

The regulations proposed herein would not impose substantial direct compliance costs on states or local governments or 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 13132, the FAA has not consulted with States or local authorities prior to the publication of this notice.

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 France: Docket No. 99–SW–04–AD.

Applicability: Model SE.3160, SA.316B, SA.316C, SA.319B, SA330F, SA330G, SA330J, SA341G, and SA342J helicopters with emergency flotation gear nitrogen cylinder, P/N ARZ 74921, with inflation head, part number (P/N) 74929, that has no serial number (S/N), or with a S/N lower than 12000, or has a union nut, P/N 75441 or 75834, 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 otherwise 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 request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless previously accomplished.

To prevent an emergency flotation gear nitrogen cylinder from exploding with resultant high velocity shrapnel, which could cause airframe damage or personal injury and subsequent loss of control of the helicopter, accomplish the following:

(a) For Model SE.3160, SA.316B, SA.316C, SA.319B, SA330F, SA330G, or SA330J helicopters,

(1) At the next scheduled emergency flotation gear maintenance inspection or 400 hours time-in-service (TIS), whichever occurs first, accomplish the following:

(i) Discharge each emergency flotation gear nitrogen cylinder (cylinder) in accordance with the ''Discharge Procedure for the 74921G Cylinder'' in Eurocopter France Service Bulletin (SB) 05.66, Revision 3, dated May 4, 1998 (316/319SB) or Eurocopter France SB 05.58, Revision 3, dated May 4, 1998 (330 SB).

(ii) Remove the inflation head and degrease the assembly.

(iii) Perform a dye penetrant inspection of each inflation head and union nut on each emergency flotation gear nitrogen cylinder.

(2) Thereafter, conduct a dye penetrant inspection of each inflation head and union nut on each cylinder at each scheduled emergency flotation gear maintenance inspection or at intervals of not more than 400 hours TIS, whichever occurs first.

(b) For Model SA341G or SA342J helicopters,

(1) At the next scheduled emergency flotation gear maintenance inspection or 520 hours time-in-service (TIS), whichever occurs first, accomplish the following:

(i) Discharge each emergency flotation gear nitrogen cylinder in accordance with the ''Discharge Procedure for the 74921G Cylinder'' in Eurocopter France Service Bulletin (SB) 05.19, Revision 3, dated May 4, 1998.

(ii) Remove the inflation head and degrease the assembly.

(iii) Perform a dye penetrant inspection of each inflation head and union nut on each cylinder.

(2) Thereafter, conduct a dye penetrant inspection of each inflation head and union nut on each cylinder at each scheduled emergency flotation gear maintenance inspection or at intervals of not more than 520 hours TIS, whichever occurs first.

(c) Before further flight, replace each cracked inflation head, P/N 74929, with an airworthy inflation head having S/N 12000 or higher.

(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, Regulations Group, 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, Regulations Group.

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

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

Note 3: The subject of this AD is addressed in Direction Generale De L'Aviation Civile AD's 80–062–041(A) R2, 80–063–030(A) R2, and 80–061–028(A) R2, all dated July 15, 1998.

Issued in Fort Worth, Texas, on December 3, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–32084 Filed 12–9–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–77–AD]

Airworthiness Directives; Eurocopter Deutschland GMBH Model MBB–BK 117 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 Model MBB–BK 117 helicopters. This proposal would change the retirement life for the tail rotor (output) drive bevel gear (bevel gear). This proposal is prompted by a fatigue analysis of the bevel gear conducted by the manufacturer due to installation of different tail rotor blades. The actions specified by the proposed AD are intended to prevent fatigue failure of the bevel gear, loss of tail rotor drive, and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before February 8, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–77–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Shep Blackman, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5296, 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. 98–SW–77–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 Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–77–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, has notified the FAA that an unsafe condition may exist on Eurocopter Deutschland Model MBB–BK117 helicopters. The LBA advises that the working life of the tail rotor (output) drive unit of the main transmission has been recalculated, requiring the introduction of a life limitation of 18,500 hours time-in-service (TIS) on the bevel gear, part number 117–12215–01.

Eurocopter Deutschland GMBH has issued Eurocopter Deutschland GMBH Alert Service Bulletin MBB–BK 117 No. ASB–MBB–BK 117–10–113, dated September 30, 1997, which specifies entering a life limitation in the accessory replacement record and historical record ''Main Transmission'' section not later than December 31, 1997. The LBA classified this service bulletin as mandatory and issued AD No. 97–350, dated December 18, 1997, 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 section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the 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 Deutschland Model MBB–BK117 helicopters of the same type design registered in the United States, the proposed AD would require entering a recalculated life limitation for the bevel gear in the accessory replacement record and historical record ''Main Transmission'' section, determining the total operating time of the bevel gear, and replacing the bevel gear upon reaching the life limit of 18,500 hours TIS.

Cost Impact

The FAA estimates that 130 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 0.5 work hour per helicopter to change the retirement life in the records, and 36 work hours to replace the bevel gear. The average labor rate is $60 per work hour. Required parts would cost approximately $14,092 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,116,660 to change the retirement life entry and to replace the bevel gear upon reaching 18,500 hours TIS for the entire fleet.

Regulatory Impact

The regulations proposed herein would not impose substantial direct compliance costs on any states or local government or 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 13132, the FAA has not consulted with any states or local authorities prior to publication of the proposed rule.

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: Docket No. 98–SW–77–AD.

Applicability: Model MBB–BK 117 helicopters, serial numbers 7001 through 7250 and 7500 through 7509, 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 helicopter 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 fatigue failure of the tail rotor (output) drive bevel gear (bevel gear), loss of tail rotor drive, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 100 hours time-in-service (TIS):

(1) Record in the accessory replacement record and historical record ''Main Transmission'' section the retirement life of 18,500 hours TIS for the bevel gear.

(2) Determine the total hours TIS of the bevel gear. If the total hours TIS cannot be determined, use the operating time of the main transmission.

(b) If the bevel gear's total hours TIS is equal to or greater than 18,400 hours TIS, remove the bevel gear within the next 100 hours TIS and replace it with an airworthy bevel gear. If the bevel gear's total hours TIS is less than 18,400 hours TIS, remove the bevel gear on or before 18,500 hours TIS and replace it with an airworthy bevel gear.

(c) This AD revises the helicopter Airworthiness Limitations section of the maintenance manual by establishing a new retirement life for the bevel gear of 18,500 hours TIS.

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

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

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

Note 3: The subject of this AD is addressed in Luftfahrt-Bundesamt (Federal Republic of Germany) AD No. 97–350, dated December 18, 1997.

Issued in Fort Worth, Texas, on December 3, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–32085 Filed 12–9–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 10, 12, and 510

[Docket No. 99N–4957]

Removal of Designated Journals; Companion Document to Direct Final Rule

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to remove its regulation that lists the veterinary and scientific journals available in FDA's library. The purpose of the list is to allow individuals to reference articles from listed journals in the new animal drug application (NADA) documents submitted to the Dockets Management Branch, and objections and requests for a hearing on a regulation or order instead of submitting a copy or reprint of the article. FDA is taking this action because this list of journals is outdated and because individuals rarely use the regulation. This proposed rule is a companion document to the direct final rule published elsewhere in this issue of the **Federal Register**. If FDA receives significant adverse comments about the direct final rule, it will be withdrawn, and the comments will be considered in the development of a final rule using usual notice-and-comment rulemaking based on this proposed rule.

DATES: Submit written comments on or before February 23, 2000. If FDA receives any significant adverse comment regarding this rule, FDA will publish in the **Federal Register** a document withdrawing the companion direct final rule within 30 days after the comment period ends. If FDA does not receive any significant adverse comment, the agency intends to publish in the **Federal Register** a document confirming the effective date of the final rule within 30 days after the comment period on the direct final rule ends. The direct final rule will be effective April 24, 2000.

ADDRESSES: Submit written comments on the proposed rule to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Gail L. Schmerfeld, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0205.

SUPPLEMENTARY INFORMATION:

I. Background

FDA proposes to remove 21 CFR 510.95 *Designated journals*. This regulation lists veterinary and scientific journals available in FDA's library. It permits waiving submission of reprints and summaries of articles from listed journals. FDA is taking this action because the regulation has rarely been used, the list of journals is outdated, and FDA does not believe it to be a wise expenditure of its resources to update the list and to have reviewers retrieve copies of referenced journals from its library, given the minimal burden on individuals to submit copies. Because

providing a copy of the reference article facilitates the review process with given the minimal burden, individuals routinely submit copies in their submissions. FDA notes that the change is more likely to expedite rather than delay review of applications and other documents. For example, if the sponsor provides a copy of the article in full, it permits prompt and efficient review of the application.

Prior to the bifurcation of human and animal drug regulations under the Animal Drug Amendments of 1968, the designated journal rule was found at 21 CFR 130.38. At that time, 21 CFR 130.4, the rule covering new drug applications (human and animal) stated that, ''[r]eprints are not required of reports in designated journals''. When NADA rule (presently § 514.1 (21 CFR 514.1)) was separated from the new human drug applications rule, this reference to the designated journals rule was dropped. The agency continued to consider the designated journals provision cited above to be part of the NADA rule, however, and allowed sponsors to omit from their NADA's copies of articles from designated journals. The agency is not amending the NADA rule (§ 514.1) because it does not refer to designated journals.

The proposed rule would amend 21 CFR 10.20 *Submission of documents to the Dockets Management Branch; computation of time; availability for public disclosure* and 21 CFR 12.22 *Filing objections and requests for a hearing on a regulation or order* by eliminating the designated journals exception to the requirement that copies of cited articles be provided.

II. Rulemaking Procedures

In the final rules section of this **Federal Register**, FDA is announcing the adoption of this amendment through direct final rulemaking procedures. FDA described its procedures for direct final rulemaking in the **Federal Register** of November 21, 1997 (62 FR 62466). This action is appropriate for direct final rulemaking because it is a noncontroversial amendment to FDA's regulations. Furthermore, FDA anticipates no significant adverse comments. Consistent with FDA's procedures for direct final rulemaking, FDA will publish a document of significant adverse comment and withdraw the direct final rule within 30 days after the comment period ends if it receives any significant adverse comments. If the direct final rule is withdrawn, FDA will consider all comments received in developing a final rule using the usual notice-and-comment rulemaking procedures based on this proposed rule. FDA is providing a 75-day comment period on this proposed rule, to run concurrently with the comment period for the companion direct final rule. This comment period begins on December 10, 1999, and it ends on February 23, 2000. If FDA receives any significant adverse comment, the agency intends to publish in the **Federal Register** a document to withdraw the companion direct final rule within 30 days after the comment period ends. If FDA does not receive any significant adverse comment in response to the direct final rule, the agency will not take action on this proposed rule. Instead, FDA will publish a document in the **Federal Register** within 30 days after the comment period on the direct final rule ends confirming that the direct final rule will be effective April 24, 2000. For additional information, see the companion direct final rule published in the final rules section of this **Federal Register**.

III. Analysis of Impacts

A. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

B. Economic Impact

FDA has examined the impacts of the proposed rule under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Regulatory Flexibility Act requires agencies to examine the economic impact of a rule on small entities. The Unfunded Mandates Reform Act requires agencies to prepare an assessment of anticipated costs and benefits before enacting any rule that may result in an expenditure in any one year by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation). The agency has reviewed this proposed rule and has determined that the proposed rule is consistent with the principles set forth in the Executive Order and in these two statutes. FDA finds that the proposed rule will not be an economically significant rule under the Executive Order.

The proposed rule would delete the regulations regarding designated journals that could be referenced by a sponsor in its application and by anyone who submits a document to the Dockets Management Branch or files an objection and request for a hearing on a regulation or order. FDA is taking this action because the list is outdated, is not being used, and is not an efficient use of agency resources. The customary practice in industry is for those preparing NADA's to include a copy of all referenced material. This is preferred because it ensures the application is complete at submission and will not result in a delay in the review process. FDA estimates that the additional copying cost to those few applicants that would have relied on the rule would be insignificant, as well as offset by the savings to the agency from not copying the same material. The agency also estimates that the additional copying costs to those few individuals that relied on the rule for documents submitted to the Dockets Management Branch and for objections and requests for hearings on a regulation or order would be insignificant.

In accordance with the Regulatory Flexibility Act, FDA has considered the effect that this proposed rule will have on small entities, including small businesses, and certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. FDA has also analyzed this proposed rule in accordance with the Unfunded Mandates Reform Act and determined that the proposed rule will not result in the expenditure in any one year by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million. Therefore, no further analysis is required.

IV. The Paperwork Reduction Act of 1995

FDA tentatively concludes that this proposed rule contains no collections of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Request for Comments

Interested persons may, on or before February 23, 2000, submit to the Dockets Management Branch (address above) written comments regarding this proposed rule. Two copies of any comments are to be submitted, except

that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. All received comments will be considered comments regarding the proposed rule and this direct final rule.

List of Subjects

21 CFR Part 10

Administrative practice and procedure, News media.

21 CFR Part 12

Administrative practice and procedure.

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 10, 12, and 510 be amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. The authority citation for 21 CFR part 10 continues to read as follows:

Authority: 5 U.S.C. 551–558, 701–706; 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–397, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201, 262, 263b, 264.

§ 10.20 [Amended]

2. Section 10.20 *Submission of documents to Dockets Management Branch; computation of time; availability for public disclosure* is amended by adding in paragraph (c)(1)(iii) the word ''or'' after the word ''available;'', by removing in paragraph (c)(1)(iv) the words ''agency; or'' and adding in its place the word ''agency.'', and by removing paragraph (c)(1)(v).

PART 12—FORMAL EVIDENTIARY PUBLIC HEARING

3. The authority citation for 21 CFR part 12 continues to read as follows:

Authority: 21 U.S.C. 141–149, 321–393, 467f, 679, 821, 1034; 42 U.S.C. 201, 262, 263b–263n, 264; 15 U.S.C. 1451–1461; 5 U.S.C. 551–558, 701–721; 28 U.S.C. 2112.

§ 12.22 [Amended]

4. Section 12.22 *Filing objections and requests for a hearing on a regulation or order* is amended by adding in paragraph (a)(5)(i)(*a*) the word ''or'' after the word ''available;'', by removing in paragraph (a)(5)(i)(*b*) the words ''agency; or'' and adding in its place the word ''agency.'', and by removing paragraph (a)(5)(i)(*c*).

PART 510—NEW ANIMAL DRUGS

5. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.3 [Amended]

6. Section 510.3 *Definitions and interpretations* is amended by removing paragraph (l).

§ 510.95 [Removed and Reserved]

7. Section 510.95 *Designated journals* is removed and reserved.

Dated: November 30, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–31908 Filed 12–9–99; 8:45 am]

BILLING CODE 4160–01–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA–222–0198; FRL–6506–7]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to disapprove revisions to the California State Implementation Plan (SIP). The revisions provide for the exemption of sources from visible emission limits in the South Coast Air Quality Management District. EPA has evaluated these revisions and is proposing to disapprove these revisions to the California SIP because the revisions are not consistent with applicable Clean Air Act (Act) requirements.

DATES: Comments must be received on or before December 27, 1999.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule and EPA's evaluation report for the rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, S.W., Washington, D.C. 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765

FOR FURTHER INFORMATION CONTACT: Patricia Bowlin, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

I. Applicability of EPA's Proposed Action

This document addresses EPA's proposed disapproval of South Coast Air Quality Management District (SCAQMD) Rule 401, Visible Emissions, as adopted by SCAQMD on September 11, 1998. SCAQMD Rule 401 was submitted by the California Air Resources Board to EPA on January 12, 1999.

This **Federal Register** action for the SCAQMD excludes the Los Angeles County portion of the Southeast Desert AQMA, otherwise known as the Antelope Valley Region in Los Angeles County, which is now under the jurisdiction of the Antelope Valley Air Pollution Control District as of July 1, 1997.[1]

II. Background of the State Submittal

On January 29, 1985 EPA approved into the SIP a version of SCAQMD Rule 401, Visible Emissions, that had been adopted by SCAQMD on March 2, 1984. Revisions to this rule were subsequently adopted on April 7, 1989 and submitted to EPA on March 26, 1990. EPA did not act on the 1990 submittal of Rule 401, which is now superseded by the January 12, 1999 submittal.

EPA found the January 12, 1999 submittal of SCAQMD Rule 401, Visible

[1] The State has recently changed the names and boundaries of the air basins located within the Southeast Desert Modified AQMA. Pursuant to State regulation the Coachella-San Jacinto Planning Area is now part of the Salton Sea Air Basin (17 Cal. Code. Reg. § 60114); the Victor Valley/Barstow Region in San Bernardino County and the Antelope Valley Region in Los Angeles County are a part of the Mojave Desert Air Basin (17 Cal. Code. Reg. § 60109). In addition, in 1996 the California Legislature established a new local air agency, the Antelope Valley Air Pollution Control District, to have the responsibility for local air pollution planning and measures in the Antelope Valley Region (California Health & Safety Code § 40106).

Emissions, to be complete on March 19, 1999, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V.[2]

The submitted version of SCAQMD Rule 401 includes the following revisions to the version of Rule 401 approved into the federally enforceable SIP in 1985:

- Adds temporary provision that establishes Ringelmann 2 standard for commercial underfired charbroilers
- Adds operational requirements for diesel pile-driving hammers subject to Ringelmann 2 versus Ringelmann 1 standard
- Adds exemption for visible emission generating equipment used in training visible emission evaluators
- Adds exemption for ships performing emergency boiler shutdowns, tests required by governmental agencies, or maneuvers for safety purposes
- Adds exemption for agricultural operations

The following provides a brief discussion of EPA's evaluation of SCAQMD Rule 401. A more detailed discussion of EPA's evaluation of the submitted rule can be found in the Technical Support Document (November 1999), which is available from the EPA Region IX office.

III. EPA's Analysis of State's Submittal

In determining the approvability of a submitted rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). These provisions require that submitted rules are enforceable and strengthen or maintain the SIP's control strategy.

EPA has evaluated SCAQMD Rule 401, Visible Emissions, as submitted on January 12, 1999, against the relevant requirements of the CAA and federal regulations. EPA has interpreted some aspects of the CAA and regulations in policy and guidance. EPA has identified several deficiencies with the State's submittal, as follows:

A. The State Has Not Demonstrated Compliance With Section 193 of the CAA

For SIP provisions which EPA approved before November 15, 1990, section 193 prohibits SIP modifications applicable within a nonattainment area unless the modification ensures equivalent or greater emissions reductions of the pollutant for which the area is designated nonattainment.

EPA approved an earlier version of SCAQMD Rule 401 as part of the SIP in 1985, prior to the enactment of the 1990 amendments to the Act (i.e., prior to November 15, 1990). SCAQMD has jurisdiction over the South Coast Air Basin and the Coachella Valley Planning Area, which are serious nonattainment areas for PM–10. Thus, the prohibition in section 193 applies to Rule 401.

SCAQMD states, in documents accompanying the 1999 submittal of Rule 401, that the revisions to the rule would have no net effect on emissions of particulate matter. However, SCAQMD does not provide an analyis or any data to support this conclusion, and EPA does not agree with SCAQMD's conclusion with regard to the new exemption for agricultural operations. Under submitted Rule 401, agricultural sources which were subject to a 20% opacity limit are no longer subject to any visible emissions standard and may now emit up to 100% opacity.

Increases in visible emissions correlate to increases in particulate matter emissions. Therefore, particulate matter emissions would likely increase from agricultural operations. For this reason, SCAQMD has failed to show that the SIP revision will insure equivalent or greater reductions of PM–10 as required by section 193 of the CAA.

B. The State Has Not Demonstrated Compliance With Section 110(l) of the CAA

Section 110(l) of the Act provides that EPA cannot approve a revision to a SIP if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act. Section 110(l) applies to SIP revisions affecting both attainment or unclassifiable areas, as well as nonattainment areas.

As discussed above, the revisions to SCAQMD Rule 401, particularly the new exemption for agricultural operations, would likely allow increased particulate matter emissions into the air. Therefore, EPA cannot approve the revisions to Rule 401 unless SCAQMD provides an adequate demonstration that the SIP revisions will not interfere with attainment of the NAAQS or any other applicable requirement of the Act.

C. The SIP Revision Does Not Meet the Requirements of Section 189 of the CAA

Section 189(a) of the CAA requires moderate PM–10 nonattainment areas to adopt reasonably available control measures (RACM), including reasonably available control technology (RACT) for stationary sources of PM–10. Section 189(b) of the CAA requires serious nonattainment areas to adopt best available control measures (BACM), including best available control technology (BACT).

As a serious PM–10 nonattainment area, SCAQMD must apply the requirements for RACT and BACT to stationary sources of PM–10. EPA believes that the requirement to implement RACT and BACT would preclude broadly exempting agricultural sources of particulate matter from visible emissions limits, where such exemption would likely result in increased particulate matter emissions. Therefore, EPA finds the submitted revisions to SCAQMD Rule 401 to be inconsistent with the requirements of CAA section 189.

III. Proposed Action

For the reasons discussed above, EPA is proposing to disapprove California's January 12, 1999 submittal of SCAQMD Rule 401, Visible Emissions. The effect of this action, once final, will be that the version of Rule 401 that was approved by EPA into the SIP in 1985 will remain in the federally enforceable SIP. Specifically, this means that agricultural operatons will be subject to federally enforceable 20% opacity limits. Because the 1985 SIP-approved Rule 401 will remain federally enforceable, this disapproval action does not trigger sanctions or FIP clocks under section 179 of the CAA.

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

V. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this proposed regulatory action from Executive Order 12866, Regulatory Planning and Review.

B. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Order 12612, Federalism, and Executive

[2] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Order 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in Executive Order 13132 to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This proposed rule 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, as specified in Executive Order 13132. Thus, the requirements of section 6 of Executive Order 13132 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under Executive Order 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because disapprovals of SIP revisions under section 110 and subchapter I, part D of the Clean Air Act do not affect any existing requirements applicable to small entities. Any existing Federal requirements will remain in place. Federal disapproval of the State SIP submittal will not affect State-enforceability. Moreover, EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed disapproval action does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. The proposed disapproval will not change existing requirements and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this proposed action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 24, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. 99–32076 Filed 12–9–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 68c

RIN 0925–AA19

National Institutes of Health Contraception and Infertility Research Loan Repayment Program

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Institutes of Health (NIH) through the Center for Population Research of the National Institute of Child Health and Human Development (NICHD) proposes to issue regulations to implement provisions of the Public Health Service (PHS) Act authorizing the NICHD Contraception and Infertility Research Loan Repayment Program (CIR–LRP). The purpose of the CIR–LRP is the recruitment and retention of highly qualified health professionals conducting contraception and/or infertility research.

DATES: Comments must be received on or before February 8, 2000 in order to assure that NIH will be able to consider the comments in preparing the final rule.

ADDRESSES: Comments should be sent to Jerry Moore, NIH Regulations Officer, Office of Management Assessment, NIH, 6011 Executive Blvd., Room 601, MSC 7669, Rockville, MD 20852. Comments may also be sent electronically by FAX (301–402–0169) or email (jm40z@nih.gov).

FOR FURTHER INFORMATION CONTACT: Jerry Moore at the address above, or telephone (301) 496–4607 (not a toll-free number). For program information contact: Dr. Louis V. DePaolo, Contraception and Infertility Research Loan Repayment Program, Center for Population Research, National Institute of Child Health and Human Development, NIH, Building 61E, Room 8B01, Bethesda, Maryland 20892–7510; telephone (301) 496–6515 (not a toll-free number); FAX (301) 496–0962; e-mail (ld38p@nih.gov).

SUPPLEMENTARY INFORMATION: The NIH Revitalization Act of 1993 (Public Law 103–43) was enacted on June 10, 1993, adding section 487B of the Public Health Service (PHS) Act, 42 U.S.C. 288–2. Section 410(b) of Public Law 105–392, the Heath Professions Education Partnership Act of 1998, amended section 487B of the PHS Act to increase the maximum annual loan repayment from $20,000 to $35,000. Section 487B, as amended, authorizes the Secretary of Health and Human Services to establish a program of entering into contracts with qualified health professionals under which such professionals agree to conduct contraception and/or infertility research in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $35,000 of the principal and interest of their outstanding graduate and/or undergraduate educational loans.

The Secretary, in consultation with the Director of NICHD, has established the NICHD Contraception and Infertility Research Loan Repayment Program (CIR–LRP) to implement this statutory authority. In return for loan repayments, applicants must agree to participate in contraception and/or infertility research for a period of obligated service of not less than two years. Selected applicants become participants in the CIR–LRP only upon the signing of a written contract by the Director, NICHD. The NIH is proposing to amend title 42 of the Code of Federal Regulations by adding a new Part 68c to govern the administration of this loan repayment program.

The proposed regulations specify the scope and purpose of the program, who is eligible to apply, how individuals apply to participate in the program, how participants are selected, and the terms and conditions of the program. The purpose of this notice is to invite public comment on the proposed regulation. The following is provided as public information.

Executive Order 12866

Executive Order 12866 requires that all regulatory actions reflect consideration of the costs and benefits they generate, and that they meet certain standards, such as avoiding the imposition of unnecessary burdens on the affected public. If a regulatory action is deemed to fall within the scope of the definition of the term ''significant regulatory action'' contained in section 3(f) of the Order, pre-publication review by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA) is necessary. This proposed rule was reviewed under Executive Order 12866 by OIRA and was deemed to be significant. Therefore it has been reviewed by OMB prior to publication.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. chapter 6) requires that regulatory proposals be analyzed to determine whether they create a significant impact on a substantial number of small entities. The Secretary certifies that any final rule resulting from this proposal will not have any such impact.

Paperwork Reduction Act

The application forms for use by the NICHD Contraception and Infertility Loan Repayment Program have been approved by OMB under OMB Approval No. 0925–0040 (expires December 31, 1999). This proposed rule does not contain any other information collection requirements which are subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance (CFDA) numbered program affected by the proposed regulation is:

93.209—NICHD Contraception and Infertility Research Loan Repayment Program.

List of Subjects in 42 CFR Part 68c

Health professions, Loan programs—health, Medical research, Reporting and recordkeeping requirements.

Dated: June 29, 1999.

Harold Varmus,

Director, National Institutes of Health.

Approved: August 26, 1999.

Donna E. Shalala,

Secretary.

For the reasons presented in the preamble, it is proposed to amend chapter I of title 42 of the Code of Federal Regulations by adding a new Part 68c to read as follows:

PART 68c—NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT CONTRACEPTION AND INFERTILITY RESEARCH LOAN REPAYMENT PROGRAM

Sec.

68c.1 What is the scope and purpose of the National Institute of Child Health and Human Development (NICHD) Contraception and Infertility Research Loan Repayment Program (CIR–LRP)?
68c.2 Definitions.
68c.3 Who is eligible to apply?
68c.4 Who is eligible to participate?
68c.5 Who is ineligible to participate?
68c.6 How do individuals apply to participate in the CIR–LRP?
68c.7 How are applicants selected to participate in the CIR–LRP?
68c.8 What does the CIR–LRP provide to participants?
68c.9 What loans qualify for repayment?
68c.10 What does an individual have to do in return for loan repayments received under the CIR–LRP?
68c.11 How does an individual receive loan repayments beyond the initial two-year contract?
68c.12 What will happen if an individual does not comply with the terms and conditions of participation in the CIR–LRP?
68c.13 Under what circumstances can the service or payment obligation be canceled, waived, or suspended?
68c.14 When can a CIR–LRP payment obligation be discharged in bankruptcy?
68c.15 Additional conditions.
68c.16 What other regulations and statutes apply?

Authority: 42 U.S.C. 288–2.

§ 68c.1 What is the scope and purpose of the National Institute of Child Health and Human Development (NICHD) Contraception and Infertility Research Loan Repayment Program (CIR–LRP)?

This part applies to the award of educational loan payments under the NICHD Contraception and Infertility Research Loan Repayment Program (CIR–LRP) authorized by section 487B of the Public Health Service Act (42 U.S.C. 288–2). The purpose of this CIR–LRP is the recruitment and retention of highly qualified health professionals conducting contraception and/or infertility research.

§ 68c.2 Definitions.

As used in this part:

Act means the Public Health Service Act, as amended (42 U.S.C. 201 *et seq.*).

Allied health professional means:

(1) A physician assistant; or

(2) A research assistant with at least a bachelor's degree and applicable career goals.

Applicant means an individual who applies to, and meets the eligibility criteria for the CIR–LRP.

Commercial loans means loans made by banks, credit unions, savings and loan associations, not-for-profit organizations, insurance companies, schools, and other financial or credit institutions which are subject to examination and supervision in their capacity as lending institutions by an agency of the United States or of the State in which the lender has its principal place of business.

Contraception and Infertility Research Loan Repayment Program (CIR–LRP or Program) means the NICHD Contraception and Infertility Research Loan Repayment Program authorized by section 487B of the Act.

Contraception and Infertility Research Loan Repayment Program (CIR–LRP or Program) contract refers to the agreement, which is signed by an applicant and the Secretary, wherein the applicant agrees to participate in research on infertility or contraceptive development and the Secretary agrees to repay qualified educational loans for a prescribed period as specified in this part.

Contraception and Infertility Research Loan Repayment Program (CIR–LRP or Program) Panel means a board assembled to review, rank, and approve or disapprove CIR–LRP applications. The Panel is composed of the Deputy Director, NICHD, representatives of NICHD's Office of Administrative Management, respective Program Officers of the Center for Population Research, and other special consultants as required.

Contraceptive development means research whose ultimate goal is to provide new or improved means of preventing pregnancy.

Educational expenses means the cost of the health professional's education, including the tuition expenses and other educational expenses such as fees, books, supplies, educational equipment and materials, and laboratory expenses.

Eligible NICHD-supported extramural site means a site funded by NICHD that can be identified as one of the following:

(1) A Cooperative Specialized Contraception and Infertility Research Center;

(2) A Cooperative Specialized Research Center in Reproduction Research;

(3) A Women's Reproductive Health Research Career Development Center; or

(4) A Reproductive Medicine Unit identified as a clinical site for the National Cooperative Reproductive Medicine Network.

Government loans means loans made by Federal, State, county, or city agencies which are authorized by law to make such loans.

Health professional means an individual who is a physician, Ph.D-level scientist, nurse, or a graduate student or postgraduate research fellow working toward a degree that will enable them to practice in one of those professions.

Infertility research means research whose long-range objective is to evaluate, treat or ameliorate conditions which result in the failure of couples to either conceive or bear young.

Living expenses means the reasonable cost of room and board, transportation and commuting costs, and other reasonable costs incurred during an individual's attendance at an educational institution.

NICHD intramural laboratory means a laboratory that is supported by the NICHD intramural research program.

Panel means the NICHD Contraception and Infertility Research Loan Repayment Program Panel.

Participant means an individual whose application to the CIR–LRP has been approved and whose Program contract has been executed by the Secretary.

Qualified educational loans include Government and commercial educational loans, interest and related expenses for:

(1) Undergraduate, graduate, and health professional school tuition expenses;

(2) Other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) Reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other reasonable living expenses incurred.

Reasonable educational and living expenses means those educational and living expenses which are equal to or less than the sum of the school's estimated standard student budget for educational and living expenses for the degree program and for the year(s) during which the participant was enrolled in school. If there is no standard budget available from the school or if the participant requests repayment for educational and living expenses which exceed the standard student budget, reasonableness of educational and living expenses incurred must be substantiated by additional contemporaneous documentation, as determined by the Secretary.

Research on infertility or contraceptive development means activities which qualify for participation in the CIR–LRP as determined by the Program Panel.

School means undergraduate, graduate, and health professions schools which are accredited by a body or bodies recognized for accreditation purposes by the Secretary of Education.

Secretary means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

State means one of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands (the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau).

Withdrawal means an individual's cessation of participation in the Program pursuant to a request by that participant that is implemented by the Secretary prior to the Program making payments on the participant's behalf. A withdrawal is without penalty to the participant and without obligation to the Program.

§ 68c.3 Who is eligible to apply?

To be eligible to apply to the CIR–LRP, an individual must be a qualified health or allied health professional who is at the time of application, or will be at the time of inception into the CIR–LRP, engaged in employment/training at

an NICHD intramural laboratory or an eligible NICHD-supported extramural site.

§ 68c.4 Who is eligible to participate?

To be eligible to participate in the CIR–LRP, the applicant must have institutional assurance of employment/affiliation with the NICHD intramural laboratory or eligible NICHD-supported extramural site and approval of the CIR–LRP Panel, must meet the criteria specified in § 68c.3, and not be ineligible to participate under § 68c.5

§ 68c.5 Who is ineligible to participate?

The following individuals are ineligible for CIR–LRP participation:

(a) Persons who are not eligible applicants as specified under § 68c.3;

(b) Persons who owe an obligation of health professional service to the Federal Government, a State, or other entity. The following are examples of programs which have a service obligation: Physicians Shortage Area Scholarship Program, National Research Service Award Program, Public Health Service Scholarship, National Health Service Corps Scholarship Program, Armed Forces (Army, Navy, or Air Force) Professions Scholarship Program, Indian Health Service Scholarship Program, National Health Service Corp. Loan Repayment Program, and the NIH AIDS Research Loan Repayment Program.

§ 68c.6 How do individuals apply to participate in the CIR–LRP?

An application for participation in the CIR–LRP shall be submitted to the Center for Population Research, NICHD, NIH, which is responsible for the Program's administration, in such form and manner as the Secretary may prescribe.

§ 68c.7 How are applicants selected to participate in the CIR–LRP?

To be selected for participation in the CIR–LRP, applicants must satisfy the following requirements:

(a) Applicants must meet the eligibility requirements specified in § 68c.3 and § 68c.4.

(b) Applicants must not be ineligible for participation as specified in § 68c.5.

(c) Applicants must propose repayment of a loan that meets the requirements of § 68c.9.

(d) Applicants must be selected for approval by the CIR–LRP Panel based upon a review of their applications.

§ 68c.8 What does the CIR–LRP provide to participants?

(a) *Loan repayments.* Upon receipt of an individual's written commitment to serve a minimum initial period of two years of obligated service in accordance with this part, the Secretary may pay up to $35,000 per year of a participant's repayable debt for each year the individual serves.

(b) Under paragraph (a) of this section, the Secretary will make payments in the discharge of debt to the extent appropriated funds are available for that purpose. When a shortage of funds exists, participants may be funded partially, as determined by the Secretary. However, once a CIR–LRP contract has been signed by both parties, the Secretary will obligate such funds as necessary to ensure that sufficient funds will be available to pay benefits for the duration of the period of obligated service unless otherwise specified by mutual written agreement between the Secretary and the applicant. Benefits will be paid on a quarterly basis after each service period unless otherwise specified by mutual written agreement between the Secretary and the applicant.

§ 68c.9 What loans qualify for repayment?

(a) The CIR–LRP will repay participants' lenders the principal, interest, and related expenses of qualified Government and commercial educational loans obtained by participants for the following:

(1) Undergraduate, graduate, and health professional school tuition expenses;

(2) Other reasonable educational expenses required by the school(s) attended, including fees, books, supplies, educational equipment and materials, and laboratory expenses; and

(3) Reasonable living expenses, including the cost of room and board, transportation and commuting costs, and other living expenses as determined by the Secretary.

(b) The following educational loans are ineligible for repayment under the CIR–LRP:

(1) Loans obtained from other than a government entity or commercial lending institution;

(2) Loans for which contemporaneous documentation is not available;

(3) Loans or portions of loans obtained for educational or living expenses which exceed the standard of reasonableness as determined by the participant's standard school budget for the year in which the loan was made, and are not determined by the Secretary to be reasonable based on additional documentation provided by the individual;

(4) Loans, financial debts, or service obligations incurred under the following programs: Physicians Shortage Area Scholarship Program (Federal or State), National Research Service Award Program, Public Health and National Health Service Corps Scholarship Training Program, National Health Service Corps Scholarship Program, Armed Forces (Army, Navy, or Air Force) Health Professions Scholarship Program, Indian Health Service Program, and similar programs, upon determination by the Secretary, which provide loans, scholarships, loan repayments, or other awards in exchange for a future service obligation;

(5) Any loan in default or not in a current payment status;

(6) Loan amounts which participants have paid or were due for payment prior to inception into the CIR–LRP; and

(7) Loans for which promissory notes have been signed after the individual's acceptance into the CIR–LRP.

§ 68c.10 What does an individual have to do in return for loan repayments received under the CIR–LRP?

Individuals must make a written commitment in accordance with this part to conduct, and must actually conduct research with respect to contraception and/or infertility at an NICHD intramural laboratory or an eligible NICHD-supported extramural site for a minimum initial period of two years.

§ 68c.11 How does an individual receive loan repayments beyond the initial two-year contract?

An individual may apply for and the Secretary may grant extension contracts for one-year periods, if there is sufficient debt remaining to be repaid and the individual is engaged in research on infertility or contraceptive development at an NICHD intramural laboratory or eligible NICHD-supported extramural site.

§ 68c.12 What will happen if an individual does not comply with the terms and conditions of participation in the CIR–LRP?

(a) Absent withdrawal (see § 68c.2) or termination under paragraph (d) of this section, any participant who fails to begin or complete the minimum two-year service obligation required under the Program contract, will be considered to have breached the contract and will be subject to assessment of monetary damages and penalties as follows:

(1) Participants who leave during the first year of the initial contract are liable for amounts already paid by the CIR–LRP on behalf of the participant plus an amount equal to $1,000 multiplied by the number of months of the original two-year service obligation.

(2) Participants who leave during the second year of the contract are liable for amounts already paid by the NICHD on

behalf of the participant plus $1,000 for each unserved month.

(b) Participants who sign a continuation contract for any year beyond the initial two-year period and fail to complete the one-year period specified are liable for the pro rate amount of any benefits advanced beyond the period of completed service plus an amount equal to the number of months of obligated service that were not completed by the participant multiplied by $1,000.

(c) Payments of any amount owed under paragraph (a) or (b) of this section shall be made within one year of the participant's breach (or such longer period as determined by the Secretary).

(d) Terminations will not be considered a breach of contract in cases where such terminations are beyond the control of the participant as follows:

(1) Terminations for cause or for convenience of the Government that are not based upon a breach or default of the participant will not be considered a breach of contract and monetary damages will not be assessed.

(2) The participant transfers to another NICHD intramural laboratory or eligible NICHD-supported extramural site, in which case the participant remains bound to any and all obligations of the contract.

(3) The participant transfer to a site other than an NICHD intramural laboratory or eligible NICHD-supported extramural site, in which case the participant may not be assessed monetary penalties if, in the judgment of the CIR–LRP Panel, the participant continues to engage in contraception and/or infertility research for any remaining period of obligated service as set forth in the contract.

§ 68c.13 Under what circumstances can the service or payment obligation be canceled, waived, or suspended?

(a) Any obligation of a participant for service or payment to the Federal Government under this part will be canceled upon the death of the participant.

(b)(1) The Secretary may waive or suspend any service or payment obligation incurred by the participant upon request whenever compliance by the participant:

(i) Is impossible;

(ii) Would involve extreme hardship to the participant; or

(iii) If enforcement of the service or payment obligation would be against equity and good conscience.

(2) The Secretary may approve a request for a suspension of the service or payment obligations for a period of 1 year. A renewal of this suspension may also be granted.

(c) Compliance by a participant with a service or pyament obligation will be considered impossible if the Secretary determines, on the basis of information and documentation as may be required, that the participant suffers from a physical or mental disability result in the permanent inability of the participant to perform the service or other activities which would be necessary to comply with the obligation.

(d) In determining whether to waive or suspend any or all of the service or payment obligations of a participant as imposing an undue hardship and being against equity and good conscience, the Secretary, on the basis of information and documentation as may be required, will consider:

(1) The participant's present financial resources and obligations;

(2) The participant's estimated future financial resources and obligations;

(3) The extent to which the participant has problems of a personal nature, such as a physical or mental disability or terminal illness in the immediate family, which so intrude on the participant's present an future ability to perform as to raise a presumption that the individual will be unable to perform the obligation incurred.

§ 68c.14 When can a CIR–LRP payment obligation be discharged in bankruptcy?

Any payment obligation incurred under § 68c.12 may be discharged in bankruptcy under Title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment is required and only if the bankruptcy court finds that a nondischarge of the obligation would be unconscionable.

§ 68c.15 Additional conditions.

In order to protect or conserve Federal funds or to carry out the purposes of section 487B of the Act, or of this part, the Secretary may impose additional conditions as a condition of any approval, waiver or suspension authorized by this part.

§ 68c.16 What other regulations and statutes apply?

Several other regulations and statutes apply to this part. These include, but are not necessarily limited to:

Debt Collection Act of 1982, Public Law 97–365 (5 U.S.C. 5514).

Fair Credit Reporting Act (15 U.S.C. 1681 et seq.).

Federal Debt Collection Procedures Act of 1990, Public Law 101–647(28 U.S.C. 1).

Privacy Act of 1974 (5 U.S.C. 552a).

[FR Doc. 99–31986 Filed 12–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

Solicitation of New Safe Harbors and Special Fraud Alerts

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Intent to develop regulations.

SUMMARY: In accordance with section 205 of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, this annual document solicits proposals and recommendations for developing new and modifying existing safe harbor provisions under the Federal and State health care programs' anti-kickback statute, as well as developing new OIG Special Fraud Alerts.

DATES: To assure consideration, public comments must be delivered to the address provided below by no later than 5 p.m. on February 8, 2000.

ADDRESSES: Please mail or deliver your written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG–41–N, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG–41–N. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619–0089, OIG Regulations Officer.

SUPPLEMENTARY INFORMATION:

I. Background

A. The OIG Safe Harbor Provisions

Section 1128B(b) of the Social Security Act (the Act) (42 U.S.C. 1320a–7b(b)) provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or receive remuneration in order to induce business reimbursed under the Federal or State health care programs. The offense is classified as a felony, and is punishable by fines of up to $25,000 and imprisonment for up to 5 years. The OIG may also impose administrative

sanctions or exclude violators from the Federal or State health care programs.

The types of remuneration covered specifically include kickbacks, bribes, and rebates, whether made directly or indirectly, overtly or covertly, or in cash or in kind. In addition, prohibited conduct includes not only remuneration intended to induce referrals of patients, but remuneration intended to induce the arranging for or the purchasing, leasing or ordering of any good, facility, service, or item paid for by Federal or State health care programs.

Since the statute on its face is so broad, concern has been expressed for many years that some relatively innocuous commercial arrangements are technically covered by the statute and are, therefore, subject to criminal prosecution. As a response to the above concern, the Medicare and Medicaid Patient and Program Protection Act of 1987, section 14 of Public Law 100–93, specifically required the development and promulgation of regulations, the so-called ''safe harbor'' provisions, designed to specify various payment and business practices which, although potentially capable of inducing referrals of business under the Federal and State health care programs, would not be treated as criminal offenses under the anti-kickback statute (section 1128B(b) of the Act; 42 U.S.C. 1320a–7b(b)) and would not serve as a basis for a program exclusion under section 1128(b)(7) of the Act; 42 U.S.C. 1320a–7(b)(7). The OIG safe harbor provisions have been developed ''to limit the reach of the statute somewhat by permitting certain non-abusive arrangements, while encouraging beneficial and innocuous arrangements'' (56 FR 35952, July 29, 1991). Health care providers and others may voluntarily seek to comply with these provisions so that they have the assurance that their business practices are not subject to any enforcement action under the anti-kickback statute or program exclusion authority.

To date, the OIG has developed and codified in 42 CFR 1001.952 a total of 21 final safe harbors that describe practices that are sheltered from liability. The OIG is also currently developing a proposed safe harbor rule addressing ambulance restocking arrangements.

B. OIG Special Fraud Alerts

In addition, the OIG has also periodically issued Special Fraud Alerts to give continuing guidance to health care providers with respect to practices the OIG regards as unlawful. These Special Fraud Alerts serve to notify the health care industry that the OIG has become aware of certain abusive practices that the OIG plans to pursue and prosecute, or to bring civil and administrative action, as appropriate. The Special Fraud Alerts also serve as a tool to encourage industry compliance by giving providers an opportunity to examine their own practices. The OIG Special Fraud Alerts are intended for extensive distribution directly to the health care provider community, as well as those charged with administering the Medicare and Medicaid programs.

In developing these Special Fraud Alerts, the OIG has relied on a number of sources and has consulted directly with experts in the subject field, including those within the OIG, other agencies of the Department, other Federal and State agencies, and those in the health care industry. To date, ten individual Special Fraud Alerts have been issued by the OIG and subsequently reprinted in the **Federal Register**.[1]

C. Section 205 of Public Law 104–191

In accordance with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. 104–191), the Department is now required to provide additional formal guidance regarding the application of the anti-kickback statute and the safe harbor provisions, as well as other OIG health care fraud and abuse sanctions. In addition to accepting and responding to requests for advisory opinions from outside parties regarding the interpretation and applicability of certain statutes relating to the Federal and State health care programs, section 205 of Public Law 104–191 requires the Department to develop and publish an annual notice in the **Federal Register** formally soliciting proposals for modifying existing safe harbors to the anti-kickback statute and for developing new safe harbors and Special Fraud Alerts. In accordance with this requirement, the OIG has published notices in the **Federal Register** on December 31, 1996 (61 FR 69060); December 10, 1997 (62 FR 65049) and December 7, 1998 (63 FR 67486), soliciting such proposals.

In developing safe harbors for a criminal statute, the OIG is compelled to engage in a complete and thorough review of the range of factual circumstances that may fall within the proposed safe harbor subject area so as to uncover all potential opportunities for fraud and abuse. Only then can the OIG determine, in consultation with the Department of Justice, whether it can effectively develop regulatory limitations and controls that will permit beneficial and innocuous arrangements within a subject area while, at the same time, protecting the Federal health care programs and their beneficiaries from abusive practices.

II. Solicitation of Additional New Recommendations and Proposals

In accordance with the requirements of section 205 of Public Law 104–191, the OIG is continuing to study safe harbor and Special Fraud Alert proposals submitted in response to the annual solicitations. Some of those suggestions have been addressed in the safe harbor rulemakings recently published on November 19, 1999 (64 FR 63504 and 64 FR 63518) or are already under development. In response to the previously-issued **Federal Register** solicitation notices, a status report of the public comments received for new and modified safe harbors is set forth annually in an appendix to the OIG's Semiannual Report covering the period April through September.[2] The OIG is currently taking the recommendations listed in the appendix under advisement and is not seeking additional public comment on those proposals at this time. Rather, this notice seeks additional recommendations from affected provider, practitioner, supplier and beneficiary representatives regarding the development of proposed or modified safe harbor regulations and new Special Fraud Alerts beyond those summarized in the appendix to the OIG Semiannual Report referenced above.

Criteria for Modifying and Establishing Safe Harbor Provisions

In accordance with the statute, we will consider a number of factors in reviewing proposals for new or modified safe harbor provisions, such as the extent to which the proposals would effect an increase or decrease in—

- Access to health care services;
- The quality of care services;
- Patient freedom of choice among health care providers;
- Competition among health care providers;
- The cost to Federal health care programs;
- The potential overutilization of the health care services; and
- The ability of health care facilities to provide services in medically

[1] *See* 59 FR 65372 (December 19, 1994); 60 FR 40847 (August 10, 1995); 61 FR 30623 (June 17, 1996); 63 FR 20415 (April 24, 1998); and 64 FR 1813 (January 12, 1999). The OIG has also issued three Special Advisory Bulletins—64 FR 37985 (July 14, 1999); 64 FR 52791 (September 30, 1999); and 64 FR 61353 (November 10, 1999).

[2] The OIG Semiannual Report can be accessed through the OIG web site at http://www.dhhs.gov/oig/semann/index.htm.

underserved areas or to medically underserved populations.

In addition, we will also take into consideration the existence (or nonexistence) of any potential financial benefit to health care professionals or providers that may vary based on their decisions whether to (1) order a health care item or service, or (2) arrange for a referral of health care items or services to a particular practitioner or provider.

Criteria for Developing Special Fraud Alerts

In determining whether to issue additional Special Fraud Alerts, we will also consider whether, and to what extent, those practices that would be identified in new Special Fraud Alerts may result in any of the consequences set forth above, and the volume and frequency of the conduct that would be identified in these Special Fraud Alerts.

A detailed explanation of justifications or empirical data supporting the suggestion, and sent to the address indicated above, would prove helpful in our considering and drafting new or modified safe harbor regulations and Special Fraud Alerts.

Dated: November 29, 1999.

June Gibbs Brown,

Inspector General.

[FR Doc. 99–32025 Filed 12–9–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 113099B]

RIN 0648–AL30

Fisheries of the Exclusive Economic Zone Off Alaska; Prohibition of Nonpelagic Trawl Gear in the Bering Sea and Aleutian Islands Directed Pollock Fishery

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 57 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). This amendment would prohibit the use of nonpelagic trawl gear in the directed pollock fishery in the BSAI. Comments from the public are requested.

DATES: Comments on Amendment 57 must be submitted by February 8, 2000.

ADDRESSES: Comments on the FMP amendments should be submitted to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel. Comments may also be hand delivered or sent by courier to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendment 57 and the Environmental Assessment/Regulatory Impact Review/Initial Flexibility Analysis prepared for the amendment by the Council and NMFS are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone 907–271–2809. Comments will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Nina Mollett, 907–586–7462 or nina.mollett@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any FMP or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP, immediately publish a notice in the **Federal Register** that the FMP or amendment is available for public review and comment.

The Council adopted Amendment 57 at its June 1998 meeting. If approved by NMFS, this amendment would prohibit the use of nonpelagic trawl gear in the directed pollock fishery in the BSAI and would reduce the bycatch limit of red king crab by 3,000 animals. The Council also recommended limits for other protected species, including halibut, *C. opilio* crab, and *C. bairdi*. NMFS may propose lowering these limits in a future proposed rule to implement Amendment 57. Amendment 57 is necessary to comply with the Magnuson-Stevens Act mandate that Regional Councils must take measures to reduce bycatch in the Nation's fisheries.

Public comments are being solicited on the amendment through the end of the comment period stated in this NOA; a proposed rule that would implement the amendment may be published in the **Federal Register** for public comment following NMFS' evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by the end of the comment period on the amendment in order to be considered in the approval/disapproval decision on the amendment. All comments received by the end of the comment period on the amendment, whether specifically directed to the amendment or to the proposed rule, will be considered in the approval/disapproval decision; comments received after that date will not be considered in the approval/disapproval decision on the amendment. To be considered, comments must be received by close of business on the last day of the comment period specified in this NOA; that does not mean postmarked or otherwise transmitted by that date.

Dated: December 6, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–32090 Filed 12–9–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 237
Friday, December 10, 1999

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

Submission for OMB Review; Comment Request

December 6, 1999.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Food and Nutrition Service

Title: USDA National Hunger Clearinghouse Database Form.

OMB Control Number: 0584–0474.

Summary of Collection: The Food and Nutrition Service (FNS) is interested in maintaining and further developing an information clearinghouse (named ''USDA National Hunger Clearinghouse'') for groups that assist low-income individuals and communities concerning nutrition assistance programs or other assistance. Section 26 of the National School Lunch Act, which was added to the Act by Section 123 Pub. L. 102–448 on November 2, 1994 (Appendix A), mandated that FNS enter into a 4 year contract with a non governmental organization to develop and maintain a national information clearinghouse of grassroots organizations working on hunger, food, nutrition, and other agricultural issues, including food recovery. This legislation was further amended on October 13, 1998 by section 112 of Pub. L. 105–336 to continue maintenance of the database through FY 2004. The USDA National Hunger Clearinghouse uses state-of-the art computer and telecommunications technologies to connect the target audience, sharing information on effective program models, pending legislation and rule makings, surplus and emergency food distribution networks, and USDA programs and policies. FNS will collect the information through fax, regular mail, e-mail, and the Internet.

Need And Use of the Information: FNS will collect information to provide a resource for groups that assist low-income individuals or communities regarding nutrition assistance program or other assistance. The information provided by the Clearinghouse database enables these groups to do a better job of assisting the target audience.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Farms.

Number of Respondents: 1,850.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 148.

Animal and Plant Health Inspection Service

Title: Pseudorabies in Swine; Payment of Indemnity.

OMB Control Number: 0579–0137.

Summary of Collection: Title 21, U.S.C. authorizes sections 111, 114, 114a, 114–1, 115, 120, 125, 126, 134a, 134c, 134f, and 134g of 21 U.S.C. These authorities permit the Secretary to prevent, control and eliminate domestic diseases such as brucellosis and tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as foot-and-mouth disease and rinderpest. More specifically, 21 U.S.C. 111, 115, 118, authorizes the Secretary of Agriculture to take such measures as he or she may deem proper to prevent the introduction or dissemination of any contagious or communicable disease of animals or live poultry from a foreign country into the United States or from one state to another. Disease prevention is the most effective method for maintaining a healthy animal population and enhancing our ability to compete in exporting animals and animal products. The Animal and Plant Health Inspection Service (APHIS) is conducting a pseudorabies eradication program (in cooperation with State governments and swine producers) that involves the systemic identification of pseudorabies-infected swine in the United States, and herd management to eliminate pseudorabies from the United States. APHIS will collect information using forms VS 1–23, VS 7–1, VS 7–3, VS 7–4, and PRV Eradication Acceleration Payment Form.

Need and Use of the Information: APHIS will collect information from herd owners on the number of pseudorabies-infected herds in each state and the number of herds vaccinated for pseudorabies. APHIS will also collect information on the appraised value of the swine being depopulated.

Description of Respondents: Business or other-for-profit; Farms; State, Local or Tribal Government.

Number of Respondents: 1,300.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 1,387.

Forest Service

Title: Baseline and Trend Information on Wilderness Use and Users.

OMB Control Number: 0596–0108.

Summary of Collection: The Wilderness Act (P.L. 88–577) directs that wilderness be managed to preserve natural conditions and to provide outstanding opportunities for solitude or a primitive and unconfined type of recreation. To meet these management goals, managers must adapt their programs to changes in the amount and type of use and resultant conditions. It is also important for managers to be aware of likely visitor response to proposed management actions and their preferences for resource conditions. Very little is known about trends in the characteristics, activities and preferences of visitors to wilderness and other wildlands. The Forest Service (FS) will collect information using mailback survey forms, face-to-face and on-site interviews to establish usage baselines and monitor trends in some areas for critical use and user characteristics for representative Forest Service wilderness area.

Need and use of the Information: FS will collect information from visitors to find out how many times they visit, when they plan their next visit, or if they plan to visit at all. Visitors will be asked, when visiting, if they come in groups, and if so, the size of those groups and how long they stay when visiting. Also, visitors will be asked do they use equipment such as stoves, wood for fires and do they have preferences for social conditions? If the information is not collected FS will have no basis for making management decisions and establishing policy for guiding wilderness management in general.

Description of Respondents: Individuals or households.

Number of Respondents: 1,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 416.

Farm Service Agency

Title: Farm Reconstitution (7 CFR part 718).

OMB Control Number: 0560–0025.

Summary of Collection: The Agricultural Act of 1938, as amended, provides for the reconstitution of farms. A reconstitution is a change in the land constituting a farm as a result of combining or dividing tracts or land or farms. The reconstitution process ensures that the farm and tract records in the County Farm Service Agency (FSA) Office are correct and up to date. A reconstitution is a required procedure when a producer wishes to increase or decrease acreage attributed to the farm from lease, sale of land, or purchase of land. Form FSA–155, Request for Reconstitution, is used as the request for a farm reconstitution initiated by the producer.

Need and use of the Information: FSA will collect information to determine farm and tract numbers, farmland, cropland, agricultural use land, distribution of tobacco quota and allotments, peanut quota, and production flexibility contract acres resulting from combination or division of the farming operation. The information is used by the County Office employees to document farm owners and operators, farmland, cropland, crop acreages, and whether land is being purchase or sold. Failure to collect the information required by FSA–155 would result in inaccurate farm records.

Description of Respondents: Farms.

Number of Respondents: 112,820.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 197,435.

National Agricultural Statistics Service

Title: Agricultural Economics and Land Ownership Survey.

OMB Control Number: 0535–NEW.

Summary of Collection: The Agricultural Economics and Land Ownership Survey (AELOS) is an integral part of the 1997 Census of Agriculture and is conducted under the authority of the Census of Agriculture Act of 1997 (Pub. L. 105–113). This law requires the Secretary of Agriculture to conduct a census of agriculture in 1998 and every fifth year following 1998. With the end of the 20th Century rapidly approaching, farmers are facing much uncertainty about their future livelihood and ability to maintain sustainable farm operations. Lower farm prices coupled with increased input costs and farmland values that have only increased slightly in recent years have placed incredible economic pressures on the Nation's agriculture economy. The 1999 AELOS will obtain data to accurately define the economic status of U.S. farm operations and households. The AELOS is designed to provide statistically reliable estimates of key economic and demographic variables at the U.S. and state level. The National Agricultural Statistics Service (NASS) will collect information using a survey.

Need and use of the Information: NASS will collect information to provide a current measure of key variables in agricultural economy that can be used by economists, financial organizations, and Congress to assess the overall condition of the U.S. farm population. The data will provide not only state level profiles of farm assets, liabilities, and operator debt, but will also include tabulations of information on farm household income and wealth. The absence of the AELOS data would negatively affect economic and financial policy decisions. Federal programs, legislation, and impact studies would be subject to greater uncertainty and error.

Description of Respondents: Farms.

Number of Respondents: 77,600.

Frequency of Responses: Reporting: Other (One-time survey).

Total Burden Hours: 57,600.

National Agricultural Statistics Service

Title: Fruit and Vegetable Agricultural Practices Survey.

OMB Control Number: 0535–0239.

Summary of Collection: In October 1997, the President signed a directive entitled ''Initiative to Ensure the Safety of Imported and Domestic Fruits and Vegetables.'' Part of this initiative directed the Food and Drug Administration (FDA) to issue a guidance document on good agricultural practices for fresh fruits and vegetables to ensure the safety of the Nation's food supply. FDA and the National Agricultural Statistics Service (NASS) are working together to establish a baseline of current agricultural practices. A 14-state survey of fruit and vegetable growers and packers will be the first step in gathering information which will assist in developing educational outreach programs for growers and packers. Education outreach is an important component of the President's initiative. NASS will collect information using a survey.

Need and use of the Information: NASS will collect information to establish a baseline of current agricultural practices as outlined in FDA's ''Guide to Minimize Microbial Food Safety Hazards for Fresh Fruits and Vegetables.'' In addition, data from the operational survey will be used for development of educational outreach programs for growers, packers, and the public. Without the data, sound policy decisions could not be made and improved grower education strategies could not be developed.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 13,000.

Frequency of Responses: Reporting: Biennially.

Total Burden Hours: 10,400.

National Agricultural Statistics Service

Title: Aquaculture Survey.

OMB Control Number: 0535–0150.

Summary of Collection: The primary function of the National Agricultural Statistics Service (NASS) is to estimate production and stocks of all important

agricultural food, fiber, and specialty commodities and collect data relating to rural America for other Federal agencies. In this capacity, NASS prepares estimates for trout sales, catfish processed, inventory, acreage, and sales. General authority for these data collection activities is granted under U.S. Code Title 7, Section 2204. This statute specifies that ''The Secretary of Agriculture shall procure and preserve all information concerning agriculture which he can obtain * * * by the collection of statistics * * * and shall distribute them among agriculturists.'' Congress has mandated the collection of basic data for aquaculture and provides funding for these surveys. Aquaculture is an alternative method to produce a high protein, low fat product demanded by the consumer. Information on the producing areas and quantities is very limited. The Census of Aquaculture, which NASS completed earlier this year, provides detail information relating to on-farm aquaculture practices. NASS will collect information using a survey.

Need and use of the Information: NASS will collect information to demonstrate the growing importance of aquaculture to officials of Federal and State government agencies who manage and direct policy over programs in agriculture and natural resources. The type of information collected and reported provides extension educators and research scientists with data that indicates important areas that require special educational and/or research efforts, such as causes for losses of fish and pond inventories of fish of various sizes.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 3,025.

Frequency of Responses: Reporting: Semi-annually.

Total Burden Hours: 825.

Nancy B. Sternberg,

Departmental Information Collection Officer.

[FR Doc. 99–32010 Filed 12–9–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Office of the Chief Economist

Notice of Appointment of the Advisory Committee on Small Farms

AGENCY: Office of the Chief Economist, USDA.

ACTION: Notification of appointment to the Advisory Committee on Small Farms

SUMMARY: The Office of the Secretary of Agriculture, in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, announces members appointed to the Advisory Committee on Small Farms. Nineteen members were appointed from nominations of more than 100 well-qualified individuals, representing owners and operators of small farms, ranches and woodlots and the diverse groups USDA programs serve. Four of the appointed members served on the USDA's National Commission on Small Farms whose term expired in July 1999. Inclusion of previous Commission members will ensure the continued consideration and implementation of the recommendations made by the Commission in its report, ''A Time to Act.'' Equal opportunity practices were followed in appointing committee members. To ensure that the recommendations of advisory committee take into account the needs of the diverse groups served by the Department, membership includes, to the extent practicable, individuals with demonstrated ability to represent minorities, women and persons with disabilities

The following appointments to the Advisory Committee on Small Farms have been made:

Dr. James Harness, will serve as chair of the Committee. He is the Director of Special Programs and Associate Extension Administrator of Alcorn State University in Fayette, Mississippi, and member of the National Commission on Small Farms;

Dayle Larue Aldridge, Director of Small Farms Outreach for the Oklahoma Landowners and Tenants Association in Taft, Oklahoma;

Jon W. Anderson, Executive Secretary at the Vermont Department of Agriculture, Food and Markets in Montpelier, Vermont;

Karen S. Armstrong-Cummings, Director, Commodity Growers Cooperative Association in Frankfort, Kentucky and member of the National Commission on Small Farms;

Suzanne L. Bertrand, Small Farms Special Project Coordinator, Heifer Project International in Little Rock, Arkansas;

Marion Long Bowlan, Farmer and Executive Director of Pennsylvania Farm Link, Inc. in Manheim, Pennsylvania and member of the National Commission on Small Farms;

Don R. Crittenden, Farmer/Rancher, Cherokee National Tribal Council Member in Taklequah, Oklahoma;

Harold Eugene Garrett, Professor and Director of the Center for Agroforestry, University of Missouri in Columbia, Missouri;

Helen Gonzalez, Farmer and Director of Farmers Feed Cooperative, St. Croix, Virgin Islands;

Luz Bazan Gutierrez, President, Washington Association of Minority Entrepreneurs, Inc., in Yakima, Washington;

Neil D. Hamilton, Director of Agricultural Law Center and Professor of Law, Drake University Law School in Waukee, Iowa;

Golden J. Hardy, Farmer and member of Jefferson County Farm Service Agency Committee in Beaumont, Texas;

Archilus L. Hart, Assistant to the Commissioner of Agriculture on Small Farms Agricultural Policy in Knightdale, North Carolina;

Edgar J. Hicks, President, DHV Inc., a farmers commodities corporation in Omaha, Nebraska;

Majorie Jarrett, Rancher in Wray, Colorado;

Calvin R. King, Sr., Founder and Executive Director, Arkansas Land and Farm Development Corporation in Aubrey, Arkansas;

George L. Siemon, Farmer and CEO, Organic Valley Cooperative in Viroqua, Wisconsin;

Ranuir Singh, Fruit farmer in Marysville, California;

Thomas Joseph Trantham, Jr., Dairy farmer in Pelzer, South Carolina and member of the National Commission on Small Farms.

Committee members will serve two-year terms. In the event of a vacancy, the Secretary will appoint a new member as appropriate and subject to the provisions of the Federal Advisory Committee Act. The duties of the Committee are solely advisory. The Committee will monitor government and private sector actions, policy and program proposals that relate to small farms, ranches and woodlots, including limited-resource farms, ranches and woodlots, and evaluate the impact such actions and proposals may have upon their viability and economic livelihood. The Committee will review USDA programs and strategies to implement small farm policy, advise the Secretary on actions to strengthen USDA programs; and evaluate other approaches that the Committee would deem advisable or which the Secretary of Agriculture or the Director of Sustainable Development and Small Farms may request the Committee to consider. The Committee will advise the Secretary through an annual report and other means as necessary and appropriate.

The Committee will hold at least one public meeting per year, and conduct working sessions and teleconference calls as determined by the Chair.

Committee members will serve without pay. Reimbursement of travel expenses and per diem costs shall be made to Committee members who would be unable to attend Committee meetings without such reimbursement.

FOR FURTHER INFORMATION CONTACT: Questions should be e-mailed to adrain@oce.usda.gov or adrain@nass.usda.gov, faxed to 202–720–0443, or telephoned to Alfonzo Drain, 202–720–3238; all mailed correspondence should be sent to Alfonzo Drain, Office of the Chief Economist, U.S. Department of Agriculture, Room 112–A, Jamie L. Whitten Building, 1400 Independence Avenue SW., Washington, DC 20250–310.

Dated: December 1, 1999.

Keith Collins,

Chief Economist, Office of the Chief Economist.

[FR Doc. 99–32012 Filed 12–9–99 8:45 am]

BILLING CODE 3410–KG–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Housing Service (RHS), Rural Utilities Service (RUS), Rural Business-Cooperative Service (RBS), and Farm Service Agency (FSA), USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named Agencies to request an extension for the currently approved information collection in support of the servicing of Community and Direct Business Programs Loans and Grants.

DATES: Comments on this notice must be received by February 8, 2000 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: For inquiries on the Information Collection Package, contact Tracy Gillin, Regulations and Paperwork Management Branch, contact Tracy Gillin, Regulations and Paperwork Management Branch, at (202) 692–0039. For program content, contact Beth Jones, Senior Loan Specialist, Community Programs Servicing and Special Authorities Branch, RHS, USDA, 1400 Independence Ave., SW, Mail Stop 0787, Washington, DC 20250–0787, Telephone (202) 720–1498, E-mail epjones@rdmail.rural.usda.gov. Comments should be submitted to Ms. Gillin at USDA—Rural Development, 1400 Independence Ave., SW, Mail Stop 0742, Washington, DC 20250–0742.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1951–E, Servicing of Community and Direct Business Programs Loans and Grants.

OMB Number: 0575–0066.

Expiration Date of Approval: February 28, 2000.

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

Abstract: The following Community and Direct Business Programs Loans and Grants are serviced by this currently approved docket (0575–0066): The Community Facilities loan and grant program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes through the Community Facilities programs for the development of essential community facilities primarily servicing rural residents.

The Economic Opportunity Act of 1964, Title 3 (Pub. L. 88–452), authorizes Economic Cooperative Loans to assist incorporated and unincorporated associations to provide to low-income rural families essential processing, purchasing, or marketing services, supplies, or facilities.

The Food Security Act of 1985, Section 1323 (Pub. L. 99–198), authorizes loan guarantees and grants to Nonprofit National Corporations to provide technical and financial assistance to for-profit or nonprofit local businesses in rural areas.

The Water and Waste Disposal program is authorized by Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) to provide basic human amenities, alleviate health hazards, and promote the orderly growth of the rural areas of the Nation by meeting the need for new and improved water and waste disposal systems.

The Business and Industry program is authorized by Section 310 B (7 U.S.C. 1932) (Pub. L. 92–419, August 30, 1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement control.

The Consolidated Farm and Rural Development Act, Section 310 B(c) (7 U.S.C. 1932(c)), authorizes Rural Business Enterprise Grants to public bodies and nonprofit corporations to facilitate the development of private business in rural areas.

The Consolidated Farm and Rural Development Act, Section 310 B(f)(i) (7 U.S.C. 1932(c)), authorized Rural Cooperative Development Grants to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural cooperative development.

The FSA is authorized by 25 U.S.C. §§ 488–494 to make loans through its Indian Tribal Land Acquisition loan program to individuals, tribes, or tribal corporations, within tribal reservations and Alaskan communities. The authority for FSA to make loans for grazing, irrigation and drainage, and farm ownership recreation loans is provided by the Consolidated Farm and Rural Development Act CONACT) (7 U.S.C. 1926 330–381).

The purpose of the loan and grant servicing function for the above programs is to assist recipients to meet the objectives of the loans and grants, repay loans on schedule, comply with agreements, and protect the Government's financial interest. Routine servicing responsibilities include collection of payments, compliance reviews, security inspections, review of financial reports, determining applicant/borrower eligibility and project feasibility for various servicing actions, and supervision activities.

Supervision by the Agencies include, but is not limited to: review of budgets, management reports, audits and financial statements; performing security inspections and providing, arranging, or recommending technical assistance; evaluating environmental impacts of proposed actions by the borrower; and performing civil rights compliance reviews.

Information will be collected by the field offices from applicants, borrowers, consultants, lenders, and attorneys.

Failure to collect information could result in improper servicing of these loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .75 hours per response.

Respondents: State, local or tribal Governments, Not-for-profit institutions, businesses, and individuals.

Estimated Number of Respondents: 78.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 118.

Copies of the information collection can be obtained from Tracy Gillin, Regulations and Paperwork Management Branch, at (202) 692–0039.

Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information will have practical utility; (b) the accuracy of the Agencies' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (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 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. Comments may be sent to Tracy Gillin, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Dated: November 5, 1999.

James E. Haskell,

Acting Administrator, Rural Business—Cooperative Service.

Dated: November 5, 1999.

Christopher A. McLean,

Acting Administrator, Rural Utilities Service.

Dated: November 16, 1999.

Keith Kelly,

Administrator, Farm Service Agency.

Dated: November 23, 1999.

Eileen M. Fitzgerald

Acting Administrator, Rural Housing Service.

Dated: November 26, 1999.

[FR Doc. 99–32013 Filed 12–9–99; 8:45 am]

BILLING CODE 3410–XV–M

DEPARTMENT OF AGRICULTURE

Forest Service

Supplement to the Veteran/Boulder Project Area Final Environmental Impact Statement; Black Hills National Forest; Spearfish/Nemo Ranger District; Lawrence and Meade Counties, SD

AGENCY: Forest Service, USDA.

ACTION: Cancellation of a supplement to a final environmental impact statement.

SUMMARY: On April 21, 1999, a Notice of Intent (NOI) to prepare a supplement to the final environmental impact statement for the Veteran/Boulder Project area (EIS No. 990191) on the Spearfish/Nemo Ranger District of the Black Hills National Forest was published in the **Federal Register** (64 FR 76). A Notice of Availability of a draft supplement was published in the **Federal Register** (64 FR 117) on June 18, 1999. Activities proposed in the draft supplement included timber harvest of mountain pine beetle infested trees to reduce an existing epidemic in the Forbes Gulch area of the Beaver Park roadless area. The NOI is being withdrawn because a separate, larger analysis, the Beaver Park Project Area analysis, has begun and this analysis has incorporated the activities that were proposed in the supplement. The NOI for the Beaver Park analysis was published in the **Federal Register** (64 FR 216) on November 9, 1999. The Forest Service NOI to prepare a supplement is hereby rescinded.

FOR FURTHER INFORMATION CONTACT: Joy Trowbridge, Spearfish/Nemo Ranger District, Black Hills National Forest, 2014 No. Main Street, Spearfish, SD 57783, telephone 605–642–4622.

Dated: November 23, 1999.

John C. Twiss,

Forest Supervisor.

[FR Doc. 99–31988 Filed 12–9–99; 8:45 am]

BILLING CODE 3410–11–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List commodities previously furnished by such agencies.

EFFECTIVE DATE: January 10, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On August 20, October 22 and 29, 1999, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (64 FR 45506, 57031 and 58378) of proposed additions to and deletions from the Procurement List.

Additions

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

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

Base Supply Center, Pope Air Force Base, North Carolina

Janitorial/Custodial

Gerow USARC, Fort Lee, Virginia

Janitorial/Custodial

Various USARCs, Fort Pickett, Virginia
Operation of Individual Equipment Element Store, Lackland Air Force Base, Texas
Operation of Warehouse, Supply Room & Seasonal Grounds Maintenance, Software Development Center, Fort Lee, Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will not have a severe economic impact on future contractors for the commodities.

3. The action will result in authorizing small entities to furnish the commodities to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities deleted from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. Accordingly, the following commodities are hereby deleted from the Procurement List:

Binder, Pilot's
7510–00–NSH–0010
(Requirements for Wright-Patterson Air Force Base, Ohio only)
Calendar Pad
7510–01–363–4999
Pocket Planning Set
7510–01–363–5003
Executive/Personal Time Management System
7530–01–444–7740
7530–01–444–7741
7530–01–444–7742
7530–01–444–7743
7530–01–444–7744
7530–01–444–7745
7530–01–444–7746
7530–01–444–7747
7530–01–444–7748
7530–01–444–7749
7530–01–444–7750
7530–01–444–7751
7530–01–444–7752
7530–01–444–7702
7530–01–444–7703
7510–01–444–7704
7510–01–444–7706
7510–01–444–7707
7510–01–444–7709
7510–01–444–7710
7510–01–444–7711
7530–01–445–0719
7530–01–445–0720
7510–01–445–0721
7520–01–429–7411
Refill, Appointment Book
7530–01–363–6709

Beverly L. Milkman,

Executive Director

[FR Doc. 99–32086 Filed 12–9–99; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletion from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a commodity previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 10, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Janitorial/Custodial for the following locations in Washington, DC

U.S. Customs Service, 1301 Constitution Avenue, NW, Interstate Commerce Commission
12th & Constitution Avenue, NW, Departmental Auditorium & Connecting Wing, 1201 Constitution Avenue, NW
NPA: The Chimes, Inc., Baltimore, Maryland

Janitorial/Grounds Maintenance

U.S. Department of Agriculture, U.S. Horticultural Research Laboratory, Fort Pierce, Florida
NPA: Brevard Achievement Center, Inc., Rockledge, Florida

Deletion

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the commodity to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for deletion from the Procurement List.

The following commodity has been proposed for deletion from the Procurement List:

Dining Packet, Inflight 7360–01–167–2610a

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–32087 Filed 12–9–99; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Office of the Secretary

Public Availability of the Report on Closed Meetings of Advisory Committees

ACTION: Announcing Public Availability of the Report on Closed Meetings of Advisory Committees.

SUMMARY: The Department of Commerce has prepared its report on the activities of closed or partially closed meetings of advisory committees as required by the Federal Advisory Committee Act.

ADDRESSES: Copies of the report have been filed and are available for public inspection at two locations:

Library of Congress, Newspaper and Current Periodicals Reading Room, Room LM133, Madison Building, 1st and Independence Avenues, SE, Washington, DC 20540.

Department of Commerce, Central Reference and Records Inspection Facility, Room 6022, Herbert C. Hoover Building, 14th and Constitution Avenue, NW, Washington, DC 20230, Telephone (202) 482–4115.

SUPPLEMENTARY INFORMATION: The report covers meetings held in FY 98. Twenty-nine committees and two subcommittees report having held closed or partially closed meetings. The names of these committees are listed below:

—Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for TPM
—ISAC on Building Products and Other Materials for TPM
—ISAC on Capital Goods for TPM
—ISAC on Chemicals and Allied Products for TPM
—ISAC on Construction, Transportation, Mining and Agriculture Equipment for TPM
—ISAC on Consumer Goods for TPM
—ISAC on Electronics and Instrumentation for TPM
—ISAC on Energy for TPM
—ISAC on Ferrous Ores and Metals for TPM
—ISAC on Lumber and Wood Products for TPM
—ISAC on Nonferrous Ores and Metals for TPM
—ISAC on Paper and Paper Products for TPM
—ISAC on Services for TPM
—ISAC on Small and Minority Business for TPM
—ISAC on Textiles and Apparel for TPM
—ISAC on Wholesaling and Retailing for TPM
—Industry Functional Advisory Committee on Customs Matters for TPM
—Industry Functional Advisory Committee on Intellectual Property Rights for TPM
—Industry Functional Advisory Committee on Standards for TPM
—Information Systems Technical Advisory Committee
—Judges Panel of the Malcolm Baldrige National Quality Award
—Manufacturing Extension Partnership National Advisory Board
—National Medal of Technology Nomination Evaluation Committee
—National Technical Information Service Advisory Board
—Regulations and Procedures Technical Advisory Committee
—Sensors Technical Advisory Committee
—Subcommittee on Encryption, President's Export Council
—Subcommittee on Export Administration, President's Export Council
—Transportation and Related Equipment Technical Advisory Committee
—U.S. Automotive Parts Advisory Committee
—Visiting Committee on Advanced Technology

Twenty-five committees report not having held any closed or partially closed meetings.

FOR FURTHER INFORMATION CONTACT: Victoria A. Kruk, Committee Management Officer, Office of the Secretary, Department of Commerce, Washington, D.C. 20230, Telephone (202) 482–4115.

Dated: November 22, 1999.

Victoria A. Kruk,

Office of Executive Assistance Management.

[FR Doc. 99–32034 Filed 12–9–99; 8:45 am]

BILLING CODE 3510–FA–M

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of First Request for Panel Review.

SUMMARY: On November 22, 1999, the Government of Canada filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final countervailing duty determination made by the International Trade Administration, respecting Live Cattle from Canada. This determination was published in the **Federal Register** (64 FR 57,040) on October 22, 1999. The NAFTA Secretariat has assigned Case Number USA–CDA–99–1904–06 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 22, 1999, requesting panel review of the final countervailing duty determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is December 22, 1999);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is January 6, 2000); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: December 6, 1999.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 99–32027 Filed 12–9–99; 8:45 am]

BILLING CODE 3510–GT–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[I.D. 101599H–1]

Extension of Public Comment Period for Draft Environmental Impact Statement and Application for an Incidental Take Permit for the Crown Pacific, L.P., Hamilton Tree Farm, Whatcom and Skagit Counties, Washington

AGENCIES: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce; Fish and Wildlife Service (FWS), Interior.

ACTION: Extension of public comment period.

SUMMARY: This notice announces an extension of the public comment period for the Draft Environmental Impact Statement and application for an Incidental Take Permit (Permit) for the Crown Pacific, L.P., Hamilton Tree Farm, in Whatcom and Skagit Counties, Washington. The Permit application includes: (1) the proposed Habitat Conservation Plan; and, (2) the proposed Implementing Agreement.

DATES: Written comments on the permit application, Environmental Impact Statement, Plan, and Implementing Agreement must be received from interested parties no later than January 10, 2000.

ADDRESSES: Requests for documents on CD ROM should be made by calling the U.S. Fish and Wildlife Service at (360)534–9330. Hard bound copies are also available for viewing, or partial or complete duplication, at the following libraries: Sedro-Woolley Public Library, 802 Ball Street, Sedro Woolley, WA, (360)855–1166; Bellingham Public Library, Reference Desk, 210 Central Avenue, Bellingham, WA, (360)676–6860; Seattle Public Library, Government Publications Desk, 1000 4th Avenue, Seattle, WA, (260)386–4636; and, Olympia Timberland Library, Reference Desk, 313 8th Avenue SE, Olympia, WA, (360)352–0595. The documents are also available electronically on the World Wide Web at http://www.r1.fws.gov/.

Comments and requests for information should be directed to Brian Bogaczyk, Project Biologist, Fish and Wildlife Service, 510 Desmond Drive, SE., Suite 102, Lacey, Washington, 98503–1273, (telephone: 360/753–5824; facsimile: 360/534–9331), and Matt Longenbaugh, Project Biologist, National Marine Fisheries Service, 510 Desmond Drive, SE., Suite 103, Lacey, Washington, 98503–1273 (telephone: 360/753–7761; facsimile: 360/753–9517). Comments and materials received will also be available for public inspection, by appointment, during normal business hours by calling (360)534–9330.

SUPPLEMENTARY INFORMATION: The original Federal Register publication announcing the public comment period for this project was announced on October 26, 1999 (64 FR 57630). That notice stated that comments would be accepted through December 27, 1999. The purpose of this extension is to provide additional review and comment time, recognizing that the traditional holiday season during the latter part of December may affect interested parties' ability to perform a thorough and comprehensive review of the documents.

Dated: November 26, 1999.

Anne Badgley,

Regional Director, Region 1, Fish and Wildlife Service, Portland, Oregon.

Dated: December 6, 1999.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–32089 Filed 12–9–99; 8:45 am]

BILLING CODES 3510–22–F, 4310–55–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112699E]

American Lobster; Intent to Prepare an Environmental Impact Statement

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

ACTION: Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for written comments.

SUMMARY: NMFS announces its intent to prepare an EIS to assess the impact on the human environment of possible management measures for the American lobster fishery in the U.S. Exclusive Economic Zone (EEZ). This NOI requests public input in the form of written comments on issues that NMFS should consider in preparing the EIS. The document will evaluate recommendations made by the Atlantic States Marine Fisheries Commission (Commission) for lobster management actions in Federal waters that complement management measures being taken by the states under the provisions of the Atlantic Coastal Fisheries Cooperative Management Act (ACFCMA). These recommendations include the evaluation of historical participation as a basis for restricting trap harvest of lobsters in the offshore EEZ, as well as in nearshore EEZ areas between New York and North Carolina. Additional action recommended by the Commission includes the implementation of vessel upgrade restrictions in the offshore EEZ fishery and a ban on lobster possession in certain Federal waters off the coast of New York. The purpose of these measures, in combination with other management actions already taken under the ACFCMA, is to end overfishing and to rebuild stocks of American lobster throughout their range. Public hearings for the EIS will be announced in the **Federal Register** at a later date.

DATES: Written comments on the intent to prepare the EIS must be received no later than 5:00 p.m. Eastern Standard Time on or before January 10, 2000.

ADDRESSES: Written comments should be sent to: Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via fax to (978) 281–9117. Comments submitted via e-mail or Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Robert Ross, (978) 281–9234, fax (978) 281–9117.

SUPPLEMENTARY INFORMATION:

Background

The New England Fishery Management Council's Fishery Management Plan (FMP) for American Lobster was implemented in Federal waters for vessels with Federal fishing permits in 1983. Since approximately 80 percent of the fishery for American lobster occurs in state waters, the FMP objectives of maintaining a sustainable fishery and preventing overfishing of the resource could not effectively be achieved by Federal action alone. NMFS could no longer ensure that the FMP, which covered only Federal waters, was consistent with national standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which requires implementation of conservation and management measures to prevent overfishing. Therefore, a proposed rule was published in 1996 (61 FR 13478) to withdraw the Council FMP upon

completion of an effective interstate management program.

The ACFCMA, enacted in 1993, includes provisions to ensure state compliance with interstate fishery management plans (ISFMPs) developed by the Commission. That legislation also provides authority for the implementation of management measures in Federal waters that are compatible with an ISFMP and consistent with the national standards specified in Section 301 of the Magnuson-Stevens Act. In December 1997, the Commission approved Amendment 3 to the American lobster ISFMP, which contained measures to end overfishing of the resource.

In March 1998, NMFS prepared a Draft EIS (63 FR 14922) that evaluated various management options in Federal waters to meet Magnuson-Stevens Act requirements regarding overfishing and the rebuilding of American lobster stocks in cooperation with the Commission under the ACFCMA. A proposed rule was then prepared on January 15, 1999 (63 FR 2708) that affirmatively responded to the overwhelming public comments urging NMFS to implement the Commission's plan in Federal waters. It also acknowledged that the preponderance of the fishery occurs in state waters and that, once the lobster FMP under the Magnuson-Stevens Act was withdrawn, state regulatory actions will be the key factor in rebuilding the lobster resource.

Subsequently, a Final EIS and a final rule were published in the **Federal Register** on May 28, 1999 (64 FR 29026), and on December 6, 1999 (64 FR 68228), respectively. The final rule transfers regulations for management of the lobster fishery under the Magnuson-Stevens Act (50 CFR part 649) to the ACFCMA (50 CFR part 697) and implements new measures consistent with the Commission's ISFMP. These new measures include the following: Extension of the current moratorium on new entrants into the EEZ fishery, designation of lobster management areas, near-shore and off-shore area trap limits, a 5–inch maximum carapace size in the Gulf of Maine, trap size restrictions, a trap escape vent size increase, trap tag allocations, and annual specification of additional management measures necessary to end overfishing and rebuild American lobster stocks. In addition, the NMFS' final rule restricts fishing effort in the EEZ based on fixed trap limits. This rule meets the Commission's request for NMFS to implement EEZ regulations compatible with the ISFMP for lobster and is consistent with the national standards of the Magnuson-Stevens Act, which must be met when implementing Federal regulations under the ACFCMA.

The Commission, on August 3, 1999, approved Addendum 1 to Amendment 3 of the ISFMP for the determination of trap limits based upon historical participation, rather than fixed trap limits, in Lobster Management Area 3 (offshore EEZ), and Areas 4 and 5 (nearshore EEZ areas south of New York). As a result of the Commission's Addendum 1 and its recommendations for NMFS to implement compatible measures in Federal waters, an advance notice of proposed rulemaking (ANPR) was published in the **Federal Register** on September 1, 1999 (64 FR 47756), to seek public comment on whether there is a need under the ACFCMA to restrict access of Federal permit holders in the lobster EEZ fishery on the basis of historical participation. The ANPR also notified the public that NMFS was considering September 1, 1999, the publication date of the ANPR, as a potential control date.

Thirty-two comments were received in response to the ANPR. Responses were received from both the trap and non-trap sectors of the lobster industry. A majority (68 percent) of the respondents stated that participation in and access to the fishery should be restricted, with most of these individuals in favor of using a control date to substantiate historical participation. A majority of respondents who were in favor of establishing a control date recommended dates that were identified through the Lobster Conservation Management Team process, rather than the September 1, 1999, control date proposed by NMFS in the ANPR.

The respondents who were opposed to access restrictions included (1) relatively new entrants into the trap sector of the fishery, (2) limited access permit holders who had not actively participated in the trap fishery, (3) two commercial lobstermen's associations, and (4) the State of Maine Department of Marine Resources (DMR). Specifically, DMR commented that use of a control date to determine historical participation in the Federal waters of certain lobster fishery management areas should be considered a part of a comprehensive Federal action plan and not a stand-alone management measure. In response to these comments, NMFS intends to evaluate such action as part of a comprehensive management approach in both state and Federal waters.

Federal lobster permit holders will be affected by actions resulting from the subsequent EIS. Specifically, current Federal lobster permit holders may be found ineligible to fish for lobster in certain lobster management areas, and/or their capacity to fish for lobster may be diminished. Additional Commission recommendations under the ISFMP may also be addressed by NMFS in the EIS in an effort to develop Federal regulations that are compatible with Addendum 1. These include the following: Vessel length and horsepower upgrade restrictions during the years 2000 and 2001; a prohibition on the possession of lobsters in certain areas, including Fire Island, Moriches, Shinnecock, and Montauk, New York; consideration of conservation equivalency measures proposed by the State of New Hampshire; and adjustments to closed area boundaries in Cape Cod Bay, Nantucket Sound, and the Cape Cod Canal. Accordingly, NMFS requests public input on these proposed management measures to assist in assessing the impact of these and other associated measures on the human environment.

Authority: 16 U.S.C. 1801 *et seg.*

Dated: December 6, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–32091 Filed 12–9–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits and Transshipment Charges for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

December 6, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing 2000 limits and charging transshipments to the 2000 limits.

EFFECTIVE DATE: January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, 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, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For

information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Bilateral Textile Memorandum of Understanding dated February 1, 1997 between the Governments of the United States and the People's Republic of China establishes limits for textiles and textile products, produced or manufactured in China and exported during the period beginning on January 1, 2000 and extending through December 31, 2000.

A notice published in the **Federal Register** on May 7, 1998 (63 FR 25202) announced that transshipment charges would be made to the 2000 quota year for Categories 331, 341, 347/348, 351, 352, 631, 636, 641, 647, 649 and 652, pursuant to the February 1, 1997 MOU and in accordance with a letter to the Government of the People's Republic of China dated May 4, 1998.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs to establish the limits for 2000 and to charge transshipments to the aforementioned categories for 2000.

The 2000 limits may be revised if China becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to China.

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 63 FR 71096, published on December 23, 1998). Information regarding the 2000 CORRELATION will be published in the **Federal Register** at a later date.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 6, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Pursuant to section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended; and a Memorandum of Understanding dated February 1, 1997 between the Governments of the United States and the People's Republic of China, you are directed to prohibit, effective on January 1, 2000, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in China and exported during the twelve-month period beginning on January 1, 2000 and extending through December 31, 2000, in excess of the following levels of restraint:

Category	Twelve-month limit
Group I	
200, 218, 219, 226, 237, 239, 300/301, 313–315, 317/326, 331, 333–336, 338/339, 340–342, 345, 347/348, 350–352, 359–C [1], 359–V [2], 360–363, 369–D [3], 369–H [4], 369–L [5], 410, 433-436, 438, 440, 442–444, 445/446, 447, 448, 607, 611, 613–615, 617, 631, 633–636, 638/639, 640–643, 644/844, 645/646, 647–652, 659–C [6], 659–H [7], 659–S [8], 666, 669–P [9], 670–L [10], 831, 833, 835, 836, 840, 842 and 845–847, as a group.	1,489,747,475 square meters equivalent.
Sublevels in Group I	
200	760,171 kilograms.
218	11,545,878 square meters.
219	2,489,303 square meters.
226	11,303,244 square meters.
237	2,081,724 dozen.
239	3,140,030 kilograms.
300/301	2,322,012 kilograms.
313	42,937,692 square meters.
314	50,905,532 square meters.
315	135,765,776 square meters.
317/326	22,221,367 square meters of which not more than 4,251,384 square meters shall be in Category 326.
331	5,315,074 dozen pairs.
333	102,104 dozen.
334	330,687 dozen.
335	390,241 dozen.
336	178,268 dozen.
338/339	2,345,616 dozen of which not more than 1,780,579 dozen shall be in Categories 338–S/339–S [11].
340	799,275 dozen of which not more than 399,637 dozen shall be in Category 340–Z [12].
341	692,566 dozen of which not more than 415,540 dozen shall be in Category 341–Y [13].
342	271,958 dozen.
345	129,290 dozen.
347/348	2,351,226 dozen.
350	173,730 dozen.
351	580,776 dozen.
352	1,653,713 dozen.
359–C	629,916 kilograms.
359–V	908,816 kilograms.
360	8,076,935 numbers of which not more than 5,509,250 numbers shall be in Category 360–P [14].
361	4,429,563 numbers.
362	7,393,164 numbers.
363	21,943,004 numbers.
369–D	4,850,271 kilograms.
369–H	5,168,442 kilograms.
369–L	3,456,254 kilograms.
410	1,009,038 square meters of which not more than 808,853 square meters shall be in Category 410–A [15] and not more than 808,853 square meters shall be in Category 410–B [16].
433	20,955 dozen.
434	13,399 dozen.
435	24,610 dozen.
436	15,161 dozen.
438	26,531 dozen.
440	37,904 dozen of which not more than 21,659 dozen shall be in Category 440–M [17].
442	40,123 dozen.
443	129,627 numbers.
444	208,985 numbers.
445/446	288,334 dozen.
447	70,970 dozen.
448	22,389 dozen.
607	3,353,959 kilograms.
611	5,560,882 square meters.
613	7,868,643 square meters.
614	12,365,009 square meters.
615	25,741,702 square meters.
617	17,985,467 square meters.
631	1,346,594 dozen pairs.
633	59,064 dozen.
634	642,575 dozen.
635	677,805 dozen.
636	558,042 dozen.
638/639	2,461,210 dozen.
640	1,393,501 dozen.
641	1,320,054 dozen.
642	347,966 dozen.
643	525,254 numbers.
644/844	3,723,828 numbers.
645/646	826,729 dozen.
647	1,586,522 dozen.
648	1,133,559 dozen.

Category	Twelve-month limit
649	986,417 dozen.
650	120,444 dozen.
651	797,134 dozen of which not more than 140,341 dozen shall be in Category 651–B [18].
652	2,885,070 dozen.
659–C	422,011 kilograms.
659–H	2,933,239 kilograms.
659–S	640,531 kilograms.
666	3,654,898 kilograms of which not more than 1,319,191 kilograms shall be in Category 666–C [19].
669–P	2,090,713 kilograms.
670–L	16,639,834 kilograms.
831	591,155 dozen pairs.
833	30,221 dozen.
835	125,126 dozen.
836	291,437 dozen.
840	486,746 dozen.
842	276,868 dozen.
845	2,464,408 dozen.
846	180,898 dozen.
847	1,272,257 dozen.
Group II	
330, 332, 349, 353, 354, 359–O [20], 431, 432, 439, 459, 630, 632, 653, 654 and 659–O [21], as a group.	126,050,507 square meters equivalent.
Group III	
201, 220, 222, 223, 224–V [22], 224–O [23], 225, 227, 229, 369–O [24], 400, 414, 464, 465, 469, 600, 603, 604–O [25], 606, 618–622, 624–629, 665, 669–O [26] and 670–O [27], as a group.	261,472,463 square meters equivalent.
Sublevel in Group III	
224–V	3,745,293 square meters.
225	6,461,344 square meters.
Group IV	
832, 834, 838, 839, 843, 850–852, 858 and 859, as a group.	11,939,855 square meters equivalent.
Levels not in a Group	
369–S [28]	615,054 kilograms.
863–S [29]	8,704,930 numbers.
870	33,431,528 kilograms.

[1] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[2] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369–H: only HTS numbers 4202.22.4020, 4202.22.4500 and 4202.22.8030.

[5] Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905.

[6] Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[7] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[8] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[9] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[10] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907.

[11] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018 and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[12] Category 340–Z: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2050 and 6205.20.2060.

[13] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[14] Category 360–P: only HTS numbers 6302.21.3010, 6302.21.5010, 6302.21.7010, 6302.21.9010, 6302.31.3010, 6302.31.5010, 6302.31.7010 and 6302.31.9010.

[15] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[16] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

[17] Category 440–M: Only HTS numbers 6203.21.0030, 6203.23.0030, 6205.10.1000, 6205.10.2010, 6205.10.2020, 6205.30.1510, 6205.30.1520, 6205.90.3020, 6205.90.4020 and 6211.31.0030.

[18] Category 651–B: only HTS numbers 6107.22.0015 and 6108.32.0015.

[19] Category 666–C: only HTS number 6303.92.2000.

[20] Category 359–O: all HTS numbers except 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025, 6211.42.0010 (Category 359–C); 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070 (Category 359–V).

[21] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 (Category 659–S).

[22] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.

[23] Category 224–O: all HTS numbers except 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020 (Category 224–V).

[24] Category 369–O: all HTS numbers except 6302.60.0010, 6302.91.0005 and 6302.91.0045 (Category 369–D); 4202.22.4020, 4202.22.4500, 4202.22.8030 (Category 369–H); 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905 (Category 369–L); and 6307.10.2005 (Category 369–S)

[25] Category 604–O: all HTS numbers except 5509.32.0000 (Category 604–A).

[26] Category 669–O: all HTS numbers except 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000 (Category 669–P).

[27] Category 670–O: only HTS numbers 4202.22.4030, 4202.22.8050 and 4202.32.9550.

[28] Category 369–S: only HTS number 6307.10.2005.

[29] Category 863–S: only HTS number 6307.10.2015.

The limits set forth above are subject to adjustment pursuant to the current bilateral agreement between the Governments of the United States and the People's Republic of China.

Products in the above categories exported during 1999 shall be charged to the applicable category limits for that year (see directive dated November 30, 1998) to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such products shall be charged to the limits set forth in this directive.

These limits may be revised if China becomes a member of the World Trade Organization (WTO) and the United States applies the WTO agreement to China.

The conversion factor for merged Categories 638/639 is 12.96 (square meters equivalent/category unit).

Pursuant to the February 1, 1997 MOU and in accordance with a letter to the Government of the People's Republic of China dated May 4, 1998, you are directed to charge the following amounts to the 2000 limits for categories listed below:

Category	Amount to be charged
331	82,122 dozen pairs.
341	80 dozen.
347/348	518 dozen.
351	62 dozen.
352	7,692 dozen.
631	30,700 dozen pairs.
636	101 dozen.
641	1,309 dozen.
647	25 dozen.
649	3,061 dozen.
652	6,372 dozen.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

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,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–32057 Filed 12–9–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

RIN 3038–AB43

Agency Information Collection Activities: Approved Collection; Comment Request; Off-Exchange Agricultural Trade Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Office of Management and Budget (OMB) has approved the following collection of information: OMB Control Number 3038–0048, Off-Exchange Agricultural Trade Options, expiration date November 30, 2002.

FOR FURTHER INFORMATION CONTACT: Kimberly Browning, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581; Telephone: (202) 418–5260, FAX (202) 418–5527, email *kbrowning@cftc.gov;* and refer to OMB Control Number 3038–0048.

Abstract: In April 1998, the CFTC removed the prohibition on off-exchange trade options on the enumerated agricultural commodities subject to a number of regulatory requirements. 63 FR 18821 (Apr. 16, 1998). This collection of information reflects the Commission's subsequent action to streamline the regulatory and paperwork burdens in order to increase the utility of agricultural trade options while maintaining basic customer protections. Responses to the collection of information are mandatory pursuant to Section 4c(b) of the Commodity Exchange Act.

The estimated average burden of the collection is as follows:

Estimated number of respondents: 3,605.

Estimated total of annual responses: 4,115.

Estimated total number of hours of annual burden in fiscal year: 23,015.

Estimated average number of hours per response: 5.59.

The Commission welcomes comments concerning the accuracy of this burden estimated and any suggestions for reducing the burden.

ADDRESSES: Send comments to Barbara W. Black, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington DC 20581; telephone (202) 418–5130; FAX (202) 418–5541; email *bblack@cftc.gov.*

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 the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 31, 1999 (64 FR 47452).

Issued by the Commission in Washington, DC, on December 6, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–32030 Filed 12–9–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

RIN 3038–AB45

Agency Information Collection Activities: Approved Collection; Comment Request; Rules, Regulations, and Forms for Domestic and Foreign Futures and Options Relating to Registration with the Commission

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notices announces that the Office of Management and budget (OMB) has approved the following collection of information: OMB Control Number 3038–0023, Rules, Regulations, and Forms for Domestic and Foreign Futures and Options Relating to Registration with the Commission, expiration date November 30, 2002.

FOR FURTHER INFORMATION CONTACT: Susan Elliot, Commodity Futures Trading Commission, 1155 21st Street, NW, Washington, DC 20581; Telephone: (202) 418–5464, FAX (202) 418–5536, email *selliot@cftc.gov* and refer to OMB Control Number 3038–0023.

Abstract: On August 26, 1999, the CFTC published a notice of proposed rulemaking (64 FR 46613) proposing to adopt amendments to Part 30 of the Commission's regulations to clarify when foreign futures and options brokers who are members of a foreign board of trade must register or obtain an exemption from registration. This collection of information reflects the Commission's proposal to codify some of the interpretations and positions the Commission has taken regarding registration requirements under these rules. Responses to the collection of information are mandatory pursuant to Sections 2(a)(1)(A), 4(b), and 4c of the Commodity Exchange Act.

The estimated average burden of the collection is as follows:

Estimated number of respondents: 73,610.

Estimated total annual responses: 76,860.

Estimated total number of hours of annual burden in fiscal year: 12,645.

Estimated average number of hours per response: 0.16.

The Commission welcomes comments concerning the accuracy of this burden estimate and any suggestions for reducing the burden.

ADDRESSES: Send comments to Barbara W. Black, Commodity Futures Trading

Commission, 1155 21st Street, NW, Washington, DC 20581; telephone: (202) 418–5130; FAX (202) 418–5541; email *bblack@cftc.gov.*

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 the CFTC's regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30,1981). The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on August 31, 1999 (64 FR 47452).

Issued by the Commission in Washington, DC, on December 6, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–32031 Filed 12–9–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

AGENCY: Office of the Secretary, DOD.

ACTION: Notice.

The Department of Defense has submitted to OMB for emergency processing, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

TITLE AND OMB NUMBER: Department of Defense Education Activity (DoDEA) School Facilities Study; OMB Number 0704–[To Be Determined].

TYPE OF REQUEST: New Collection; Emergency processing requested with a shortened public comment period ending December 17, 1999. An approval date of December 15, 1999, has been requested.

Number of Respondents: 90.

Responses per Respondent: 1.

Annual Responses: 90.

Average Burden per Response: 120 minutes.

Annual Burden Hours: 180.

Needs and Uses: This collection of information is needed to comply with the mandate of Public Law 106–52. Section 127 of Public Law 106–52 directs the Secretary of Defense to submit to the Senate Committee on Appropriations, Subcommittee on Military Construction, a report examining the adequacy of special education facilities and services available to the dependent children of military personnel stationed in the United States. The School Facilities Survey will provide the required information for: (1) Schools located on a military installation within the United States; (2) School districts within the continental United States that have been impacted by a twenty percent or more increase in students in the past five years resulting from base realignments or consolidation; and, (3) School districts in areas designated by the military departments as compassionate assignment posts for the impact of increased special education requirements. Information will be obtained from up to 90 public school districts by means of a questionnaire and potential visits to selected districts. The survey data will be used to determine adequacy of special education services and facilities, requirements for additional facilities or renovations, and to provide data for a cost estimate of the funding needed to address these requirements. From this information, project requirements and cost estimates will be developed.

Affected Public: State, Local, or Tribal Government (Public School Districts).

Frequency: One-time.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302, or by fax at (703) 604–6270.

Dated: December 6, 1999.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 99–31997 Filed 12–9–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

AGENCY: Office of the Secretary, DOD.

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Application Forms Booklet, Naval Reserve Officers Training Corps Scholarship Program; CNET 1533/74, 1533/91, 1533/87, 1533/92, 1533/88, 1533/93, 1533/89; OMB Number 0703–0026.

Type of Request: Reinstatement.

Number of Respondents: 14,000.

Responses per Respondent: 1.

Annual Responses: 14,000.

Average Burden per Response: 4 hours.

Annual Burden Hours: 56,000.

Needs and Uses: This collection of information is used to make a determination of an applicant's academic and/or leadership potential and eligibility for a Naval Reserve Officers Training Corps (ROTC) scholarship. The information is used to select the best qualified candidates. Information is provided by the applicant and by high school administrators, teachers, and other adults well acquainted with the applicant.

Affected Public: Individuals or Households.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: December 6, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–31998 Filed 12–9–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is

hereby given that closed meetings of the Department of Defense Wage Committee will be held on January 4, 2000, January 11, 2000, January 18, 2000, and January 25, 2000, at 10 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Pub. L. 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: December 6, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–31999 Filed 12–9–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, 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 February 8, 2000.

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 Leader, Information Management Group, Office of the Chief Information Officer, publishes that 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.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: December 6, 1999.

William Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Integrated Postsecondary Education Data System (IPEDS), Introduction to the Web-Based Collection on Institutional Price and Student Financial Aid and Modifications to the 2000–2002 Data Collection Items.

Frequency: Biennially.

Affected Public: Individuals or household; Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 9,850. Burden Hours: 202,636.

Abstract: IPEDS is a system of surveys designed to collect basic data from approximately 10,000 postsecondary institutions in the United States. The IPEDS provides information on numbers of students enrolled, degrees completed, other awards earned, dollars expended, staff employed at postsecondary institutions, and cost and pricing information. The amendments to the Higher Education Act of 1998, Part C, Sec. 131, specify the need for the ''redesign of relevant data systems to improve the usefulness and timeliness of the data collected by such systems.'' As a consequence, in 2000 the IPEDS is proposing a web-based data collection for all items previously collected via paper forms from Title IV eligible institutions.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address OCIO IMG Issues@ed.gov or should be faxed to 202–708–9346.

Written comments or questions regarding burden and/or the collection activity requirements should be directed to Kathy Axt at (703) 426–9692 or via her internet address Kathy Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–32020 Filed 12–9–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.288S]

Office of Bilingual Education: Program Development and Implementation Grants Program

AGENCY: Department of Education.

ACTION: Correction and Extension Notice.

SUMMARY: On November 17, 1999, a notice inviting applications for new awards for FY 2000 was published in the **Federal Register** (64 FR 62949 through 62969). This notice was a complete application package and contained all of the information; application forms and instructions needed to apply for a grant under this program. There were five items inadvertently omitted from the application package. They are Project Documentation, Group Application Certification, Student Data, Instructions for Form 524 and a list of Empowerment Zones and Enterprise Communities. All have been included as attachments to this correction notice. In addition, the copy of ED Forms No. 524 (Budget Information for Non-Construction Programs) has expired and a copy of the new form is also included as an attachment to this notice.

Note: This notice also extends the deadline for transmittal of applications as follows:

Deadline for Transmittal of Applications: January 17, 2000.

Deadline for Intergovernmental Review: March 17, 2000.

FOR FURTHER INFORMATION CONTACT: Cecile Kreins, U.S. Department of Education, 400 Maryland Avenue, SE. room 5611, Switzer Building, Washington, DC 20020–6510. Telephone: (202) 205–5568. Jim Lockhart, U.S. Department of Education, 400 Maryland Avenue SE, room 6522, Switzer Building, Washington, DC 20202–6510. Telephone: 202–205–5426. Rebecca Richey, U.S. Department of Education, 400 Maryland Avenue, SW, room 5619, Switzer Building, Washington, DC 20202–6510. Telephone: 202–205–9717. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330.

Individuals with disabilities may obtain this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html*

Program Autority: 20 U.S.C. 7422.

Dated: December 3, 1999.

Art Love,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

Project Documentation

Note: Submit the appropriate documents and information as specified below for the following programs:

Program Development and Implementation Grant

Section A

A copy of applicant's transmittal letter requesting the appropriate State educational agency to comment on the application. This requirement does not apply to schools funded by the Bureau of Indian Affairs. (See 34 CFR 75.155 and 75.156 below.)

§ 75.155 Review procedure if State may comment on applications: Purpose of §§ 75.156–75.158. If the authorizing statute for a program requires that a specific State agency be given an opportunity to comment on each application, the State and the applicant shall use the procedures in § § 75.156–75.158 for that purpose.

(Authority: 20 U.S.C. 1221e–3(a)(1))

Cross-Reference: See 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities) for the regulations implementing the application review procedures that States may use under E.O. 12372. (In addition to the requirement in § 75.155 for review by the State education agency, the application is subject to State review by Executive Order 12372 process. Applicants must complete item 16 of the application face sheet (Standard Form 424, Application for Federal Assistance) by either (a) specifying the date when the application was made available to the State Single Point of Contact for review or (b) indicating that the program has not been selected by the State for review).

§ 75.156 When an applicant under § 75.155 must submit its application to the State: proof of submission.

(a) Each applicant under a program covered by § 75.155 shall submit a copy of its application to the State on or before the deadline date for submitting its application to the Department.

(b) The applicant shall attach to its application a copy of its letter that requests the State to comment on the application.

(Authority: 20 U.S.C. 1221e–3(a)(1))

Section B

Evidence of compliance with the Federal requirements for participation of students enrolled in nonprofit private schools. (See section 7116(h)(2) of Public Law 103–382 and 34 CFR 75.119, 76.652, and 76.656 below.)

Sec. 7116. Applications. ''(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children.''

(Authority: 20 U.S.C. 7426(h)(2))

§ 75.119 Information needed if private schools participate. If a program requires the applicant to provide an opportunity for participation of students enrolled in private schools, the application must include the information required of subgrantees under 34 CFR 76.656.

(Approved by the Office of Management and Budget under control number 1880–0513)

(Authority: 20 U.S.C. 1221e–3(a)(1))

§ 76.652 Consultation with representatives of private school students.

(a) An applicant for a subgrant shall consult with appropriate representatives of students enrolled in private schools during all phases of the development and design of the project covered by the application, including consideration of:

(1) Which children will receive benefits under the project;

(2) How the children's needs will be identified;

(3) What benefits will be provided;

(4) How the benefits will be provided; and

(5) How the project will be evaluated.

(b) A subgrantee shall consult with appropriate representatives of students enrolled in private schools before the subgrantee makes any decision that affects the opportunities of those students to participate in the project.

(c) The applicant or subgrantee shall give the appropriate representatives a genuine opportunity to express their views regarding each matter subject to the consultation requirements in this section.

(Authority: 20 U.S.C. 1221e–3(a)(1))

§ 76.656 Information in an application for a subgrant. An applicant for a subgrant shall include the following information in its application:

(a) A description of how the applicant will meet the Federal requirements for participation of students enrolled in private schools.

(b) The number of students enrolled in private schools who have been identified as eligible to benefit under the program.

(c) The number of students enrolled in private schools who will receive benefits under the program.

(d) The basis the applicant used to select the students.

(e) The manner and extent to which the applicant complied with § 76.652 (consultation).

(f) The places and times that the students will receive benefits under the program.

(g) The differences, if any, between the program benefits the applicant will provide to public and private school students, and the reasons for the differences.

(Authority: 20 U.S.C. 1221e–3(a)(1))

Section C

Check the appropriate box below:

• There are no eligible nonprofit private schools in the proposed service delivery area that wish to participate in the project.

• One or more eligible nonprofit private schools in the proposed service delivery area wish to participate in the

project and are listed on the enclosed student Data form.

• There are no eligible nonprofit private schools in the proposed service delivery area.

Section D

If applicable, identify on the line at the right the Empowerment Zone, Supplemental Empowerment zone, or Enterprise Community that the proposed project will serve. (See the competitive priority and the list of designated Empowerment Zones and Enterprise Communities in previous sections of this application package.)

Empowerment Zones and Enterprise Communities (as of January 13, 1999)

Empowerment Zones

California: Los Angeles, Oakland, Santa Ana, Riverside County*
Connecticut: New Haven+
Florida: Miami+
Georgia: Atlanta, Cordele*+
Illinois: Chicago, East St. Louis+, Ullin*
Indiana: Gary, East Chicago
Kentucky: Kentucky Highlands* (Clinton, Jackson, and Wayne Counties)
Maryland: Baltimore
Massachusetts: Boston+
Michigan: Detroit
Minnesota: Minneapolis+
Mississippi: Mid-Delta* (Bolivar, Holmes, Humphreys, LeFlore, Sunflower, Washington Counties)
Missouri/Kansas: Kansas City, Kansas City
Missouri: St. Louis+
New Jersey: Cumberland County
New York: Harlem, Bronx
North Dakota: Lake Agassiz*
Ohio: Cleveland, Cincinnati, Columbus+
Ohio/West Virginia: Ironton/Huntington+
Pennsylvania/New Jersey: Phhiladelphia/Camden
South Carolina: Columbia/Sumter
South Dakota: Oglala Sioux Reservation in Pine Ridge*
Tennessee: Knoxville
Texas: Houston, El Paso+, Rio Grande Valley* (Cameron, Hidalgo, Starr, and Willacy Counties)
Virginia: Norfolk+/Portsmouth

Enterprise Communities

Alabama: Birmingham
Alabama: Chambers County,* Greene County*, Sumter County*
Alaska: Juneau*
Arizona: Arizona Border* (Cochise, Santa Cruz and Yuma Counties), Phoenix, Window Rock*
Arkansas: East Central* (Cross, Lee, Monroe, and St. Francis Counties), Mississippi County*, Pulaski County
California: Imperial County*, Los Angeles, Huntington Park, San Diego, San Francisco, Bayview, Hunter's Point, Watsonville*, Orange Cove*
Colorado: Denver
Connecticut: Bridgeport, New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County*, Miami, Dade County, Tampa, Immokalee*
Georgia: Albany, Central Savannah River* (Burke, Hancock, Jefferson, McDuffie, Tallafero, and Warren Counties), Crisp County*, Dooley County*
Hawaii: Kaunakakai*
Illinois: East St. Louis, Springfield
Indiana: Indianapolis, Austin*
Iowa: Des Moines
Kansas: Leoti*
Kentucky: Louisville, Bowling Green*
Louisiana: Macon Ridge* (Catahoula, Concordia, Franklin, Morehouse, and Tensas Parishes), New Orleans, Northeast Louisiana Delta* (Madison Parish), Quachita Parish
Maine: Lewiston
Massachusetts: Lowell, Springfield
Michigan: Five Cap*, Flint, Muskegon, Harrison*
Minnesota: Minneapolis, St. Paul
Mississippi: Jackson, North Delta Area* (Panola, Quitman, and Tallahatchie Counties)
Missouri: East Prairie*, St. Louis
Montana: Poplar*
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque, La Jicarita* (Mora, Rio Arriba, Taos Counties), Deming*
New York: Albany, Schenectady, Troy
New York: Buffalo, Rochester
New York: Newburgh, Kingston
North Carolina: Charlotte
North Carolina: Edgecombe, Halifax, Robeson, Wilson Counties*
Ohio: Akron, Columbus, Greater Portsmouth* (Scioto County)
Oklahoma: Choctaw, McCurtain Counties*, Oklahoma City, Ada*
Oregon: Josephine County*, Portland
Pennsylvania: Harrisburg, Lock Haven*, Pittsburgh, Uniontown*
Rhode Island: Providence
South Carolina: Charleston, Williamsburg, Florence County*, Hallandale*
South Dakota: Beadle, Spink Counties*
Tennessee: Fayette, Haywood Counties*, Memphis, Nashville, Rutledge*
Tennessee/Kentucky: Scott, McCreary Counties*
Texas: Dallas, El Paso, San Antonio, Waco, Uvalde*
Utah: Ogden
Vermont: Burlington
Virginia: Accomack (Northampton County)*, Norfolk
Washington: Lower Yakima County*, Seattle, Tacoma, Collie*
West Virginia: Charleston*, Huntington, McDowell County*, West Central Appalachia* (Braxton, Clay, Fayette, Nicholas, and Roane)
Wisconsin: Milwaukee, Keshena*

* Denotes rural designee
+ Also an Enterprise Community, Round One

For further information consult the following Internet site: http://www.ezec.gov

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours per response, including the time reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and the Office of Management and Budget, Paperwork Reduction Project 1875–0102, Washington, DC 20503.

Instructions for ED Form 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A—Budget Summary, U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1–11.

Lines 1–11, columns (a)–(e): For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1–11, column (f): Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)–(e): Show the total budget request for each project year for which funding is requested.

Line 12, column (f): Show the total amount requested for all project years.

If funding is requested for only one year, leave this space blank.

Section B—Budget Summary, Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1–11 of Section B.

Lines 1–11, columns (a)–(e): For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1–11, column (f): Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)–(e): Show the total matching or other contribution for each project year.

Line 12, column (f): Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C—Other Budget Information, Pay Attention to Applicable Program Specific Instructions, If Attached

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

BILLING CODE 4000–01–M

GROUP APPLICATION CERTIFICATION

NOTE: This form must be completed by eligible parties applying as a group for a grant. This form must be accompanied by a group agreement that details the activities that each member of the group plans to perform under the grant.

(34 CFR 75.128(b)-(c)).

To the best of my knowledge and belief, all data in this application are true and correct. I agree to be bound to every statement and assurance made in this application.

Authorized Representative					
Typed Name	Title	Signature	Date Signed	Telephone Number (including Area Code)	Name of Institution/ Organization

STUDENT DATA

Name of Local Educational Agency

SECTION A

1. Total number of limited English proficient (LEP) students in the school district		
2. Total number of students in the school district		
3. Percentage of LEP students (line 1 divided by line 2)		%

SECTION B

Name of project school	Language group(s) to be served	Grade(s) to be served	Number of students to be served		
			LEP	Non-LEP	Total
Total number of students to be served					

U.S. DEPARTMENT OF EDUCATION

BUDGET INFORMATION

NON-CONSTRUCTION PROGRAMS

OMB Control Number *Draft*

Expiration Date: *Pending OMB Clearance*

Name of Institution/Organization

Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED Form No. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED Form No. 524

[FR Doc. 99-30815 Filed 12-9-99; 8:45 am]
BILLING CODE 4000-01-C

DEPARTMENT OF ENERGY

Identification of Preferred Alternatives for the Department of Energy's Waste Management Program: Low-Level Waste and Mixed Low-Level Waste Disposal Sites

AGENCY: Department of Energy (DOE).

ACTION: Notice of Preferred Alternatives.

SUMMARY: DOE's Final Waste Management Programmatic Environmental Impact Statement (WM PEIS) identified preferred alternatives for disposal of low-level waste (LLW) and mixed low-level waste (MLLW) as regional disposal at two or three sites to be selected from six candidate sites. (As used here and in the WM PEIS, ''regional disposal'' refers to using only a few disposal sites for a much larger number of waste generating sites.) The six candidate sites were: the Hanford Site in Washington, the Idaho National Engineering and Environmental Laboratory (INEEL), the Los Alamos National Laboratory (LANL) in New Mexico, the Nevada Test Site (NTS), the Oak Ridge Reservation (ORR) in Tennessee, and the Savannah River Site (SRS) in South Carolina. As committed to in the WM PEIS, this Notice identifies the specific sites the Department prefers for regional disposal of LLW and MLLW.

For the management of LLW analyzed in the WM PEIS, DOE prefers regional disposal at Hanford and NTS. In addition, consistent with current practice, LLW disposal operations at LANL, ORR, INEEL and SRS would continue, to the extent practicable. LANL and ORR would continue disposal of LLW generated on-site. INEEL and SRS would continue to dispose of LLW generated on-site or by the Naval Nuclear Propulsion Program.

For the management of MLLW analyzed in the WM PEIS, the Department prefers regional disposal at Hanford and NTS.

DOE will issue a Record of Decision for LLW and MLLW disposal no sooner than 30 days after publication of this Notice.

FOR FURTHER INFORMATION: Copies of the Final WM PEIS and this Notice are available in DOE public reading rooms and selected libraries located across the United States; the WM PEIS also is available on the internet at *www.osti.gov/bridge* (select Advanced Search; under Select Field, choose Identifying Number, then key in ''DOE/EIS–0200–F''). A list of the public reading rooms can be accessed on the internet at http://www.em.doe.gov/em30/. To request copies of the WM PEIS, this Notice, or a list of the reading rooms and public libraries, contact: The Center for Environmental Management Information, PO Box 23769, Washington, DC 20026–3769, phone number 1–800–736–3282 (in Washington, D.C., 202–863–5084).

For further information on the WM PEIS, or this Notice, contact: Ms. Karen Guevara, WM PEIS Program Manager, U.S. Department of Energy, Office of Environmental Management, 19901 Germantown Road, Germantown, MD 20874, 301–903–4981.

For general information on DOE's National Environmental Policy Act (NEPA) process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Assistance (EH–42), U.S. Department of Energy, Office of Environment, Safety and Health, 1000 Independence Avenue, SW, Washington, DC 20585–0119, 202–586–4600, or leave a message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background

DOE analyzed alternatives for low-level waste (LLW) and mixed low-level waste (MLLW) treatment and disposal in the Final Waste Management Programmatic Environmental Impact Statement (DOE/EIS–0200) (WM PEIS) (Chapters 7 and 6, respectively). DOE prepared the WM PEIS under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, and issued the Final WM PEIS in May 1997.

For LLW and MLLW treatment and disposal, the Final WM PEIS identified preferred alternatives as required under Council on Environmental Quality regulations implementing NEPA, in accordance with criteria established (after considering public comments) in Section 1.7.3 of the Final WM PEIS. For LLW and MLLW *treatment,* the Final WM PEIS identified specific site preferences. However, for LLW and MLLW *disposal,* the Final WM PEIS did not identify specific site preferences. As a result, DOE is issuing this Notice of Preferred Alternatives to identify specific LLW and MLLW disposal site preferences.

Neither this Notice of Preferred Alternatives nor the subsequent Record of Decision will address or limit treatment or disposal of DOE waste at commercial facilities; nor will either affect individual, site-specific cleanup decisions on where to dispose of remediation wastes that are not in the waste management program. The Record of Decision for LLW and MLLW will name both *treatment and disposal* sites, whereas the Notice of Preferred Alternatives focuses only on *disposal* sites.

The Final WM PEIS identified DOE's preferred alternative for LLW treatment as performing minimum treatment (as defined in the WM PEIS) of LLW at all sites that generate LLW. For MLLW treatment, DOE's preferred alternative is to regionally treat MLLW at the Hanford Site in Washington, the Idaho National Engineering and Environmental Laboratory (INEEL), the Oak Ridge Reservation (ORR) in Tennessee, and the Savannah River Site (SRS) in South Carolina, or on-site, consistent with Site Treatment Plans issued under the Federal Facilities Compliance Act, Pub. L. 102–386.

The Final WM PEIS also identified DOE's preferred alternatives for LLW and MLLW disposal as regional disposal at two or three disposal sites, to be selected from the six candidate sites at which DOE currently disposes of LLW or MLLW: the Hanford Site, INEEL, the Los Alamos National Laboratory (LANL) in New Mexico, the Nevada Test Site (NTS), ORR, and SRS. This Notice identifies the specific sites DOE prefers for regional disposal of LLW and MLLW.*

Preferred Alternative for LLW Disposal Sites

DOE's preferred alternative for LLW disposal is to establish regional LLW disposal at two DOE sites: Hanford and NTS. Specifically, Hanford and NTS would each dispose of its own LLW on-site, and would receive and dispose of LLW that is generated and shipped from other sites and meets the waste

* After the Final WM PEIS was issued in May 1997, DOE issued ''Accelerating Cleanup: Paths to Closure.'' In that document, DOE provided estimates of waste volumes that would result from the planned operations and accelerated cleanup processes at DOE sites. Because some of the estimates differed from those provided in the WM PEIS, DOE examined the LLW and MLLW volumes to determine if the updated volume estimates constitute significant new information relevant to environmental concerns that would warrant preparation of a supplemental EIS or a new PEIS. This examination extended only to LLW and MLLW volumes, because the transuranic, hazardous and high-level waste volume estimates did not change from those analyzed in the Final WM PEIS.

The preferred disposal site alternatives were chosen based on factors that would not be affected by these changed waste volume estimates. Waste volume considerations could have influenced the choice of preferred disposal site alternatives only if the estimated volume of LLW, the estimated volume of MLLW, or the expected nationwide distribution of waste had changed dramatically, none of which occurred. Therefore, DOE has concluded that its decisionmaking process for LLW and MLLW disposal can proceed without preparing a supplemental EIS or a new PEIS.

acceptance criteria. (Use of the term ''regional'' would not impose geographical restrictions on which DOE sites could ship LLW to Hanford or NTS for disposal.) In addition, disposal operations at INEEL, LANL, ORR, and SRS would continue, consistent with current practice and to the extent practicable. LANL and ORR would continue disposal of LLW generated on-site. INEEL and SRS would continue to dispose of LLW generated on-site or by the Naval Nuclear Propulsion Program. DOE's current preferred alternative for LLW disposal is a combination of the preferred LLW disposal alternative identified in the Final WM PEIS (i.e., regionalized disposal at two DOE sites—Hanford and NTS) and the Decentralized Alternative described in the Final WM PEIS (on-site disposal of on-site generated LLW—INEEL, LANL, ORR, and SRS).

Preferred Alternative for MLLW Disposal Sites

The Department's preferred alternative for MLLW disposal is to establish regional MLLW disposal operations at two DOE sites: Hanford and NTS. Specifically, Hanford and NTS would each dispose of its own MLLW on-site, and would receive and dispose of MLLW generated and shipped by other sites, consistent with permit conditions and other applicable requirements. Therefore, DOE's current preferred alternative for MLLW disposal is the preferred MLLW disposal alternative identified in the Final WM PEIS.

Factors Used to Identify Preferred Alternatives for LLW and MLLW Disposal Sites

In identifying the preferred alternatives announced today, DOE considered the following factors, among others (a more complete list is presented in Volume I, Section 1.7.3 of the WM PEIS):

- DOE's mission to safely and efficiently dispose of wastes.
- Environmental impacts, including health impacts on workers and the public.
- Distribution of waste management facilities in ways that are considered equitable.
- Overall implementation cost.
- Flexibility of implementation.
- Transportation.

In addition to the factors presented in the Final WM PEIS, DOE also considered the subsequent comments of stakeholders in identifying the preferred alternatives announced in this Notice. DOE received these comments as part of a consultative process it has engaged in with States, Tribal governments, regulators, and other stakeholders since the Final WM PEIS was issued. The preferred alternatives announced today for LLW and MLLW disposal sites are among the options discussed with stakeholders, including on the following occasions:

- National Governors' Association's Federal Facilities Compliance Task Force meetings in March and October 1998.
- National Association of Attorneys General's DOE Workgroup meetings in April and December 1998.
- Intersite Discussions on Nuclear Material and Waste convened by the League of Women Voters Education Fund in June 1998.
- Transportation External Coordination Working Group in July 1998 and January 1999.
- LLW Seminar sponsored by the Nevada Citizens' Advisory Board in August 1998.
- State and Tribal Government Working Group meetings in October 1998 and April 1999.
- LLW Forum in October 1998.
- Environmental Management Advisory Board in October 1998.
- National Council of State Legislators Roundtable Discussion in September 1999.

Through this process, the Department received comments on factors to consider in its decisionmaking process. This public input focused on transportation, site conditions, cost effectiveness, and waste/materials consolidation. In summary, the comments suggested that DOE should:

- Address urgent risks.
- Seek to minimize transportation of nuclear waste and materials.
- Pursue consolidation of nuclear waste and materials only as needed to address risk and to allow for site closures.
- Consider each site's suitability and surrounding population in deciding which sites should receive wastes.
- Consider cost effectiveness in deciding which sites should receive waste.
- Compensate receiving communities for receiving other sites' wastes.
- Continue ongoing discussions with the public about radioactive waste and material issues, including transportation routes and implementation.

Decision Process for LLW and MLLW Disposal Sites

This Notice fulfills a commitment DOE made in the WM PEIS, Volume I, Section 3.7, to announce which specific LLW and MLLW disposal sites it prefers at least 30 days before making decisions on disposal sites. DOE will issue a Record of Decision for LLW and MLLW treatment and disposal no sooner than 30 days after publication of this Notice.

Issued in Washington, DC, this 5th day of December, 1999.

Carolyn L. Huntoon,

Assistant Secretary for Environmental Management.

[FR Doc. 99–32053 Filed 12–9–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–112–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

December 6, 1999.

Take notice that on December 1, 1999, Colorado Interstate Gas Company (CIG) filed of its FERC Gas Tariff, First Revised Volume No. 1, Fifteenth Revised Sheet No. 11A, reflecting a decrease in its fuel reimbursement percentage for Lost, Unaccounted-For and Other Fuel Gas from 1.43% to 1.31% effective January 1, 2000.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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 proceedings. 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 in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–32044 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–4470–000 and EL00–18–000]

Commonwealth Edison Company and Commonwealth Edison Company of Indiana; Notice Rescinding Prior Notice

December 6, 1999.

On December 1, 1999, the Commission issued a ''Notice of Initiation of Proceeding and Refund Effective Date'' in the above-docketed proceedings. By this notice, the December 1, 1999 Notice is hereby rescinded.

David P. Boergers,

Secretary.

[FR Doc. 99–32006 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–109–000]

PG&E Gas Transmission, Northwest Corporation; Notice of Tariff Filing

December 6, 1999.

Take notice that on December 1, 1999, PG&E Gas Transmission, Northwest Corporation (PG&E GT–NW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Twenty-Third Revised Sheet No. 5, with an effective date of January 1, 2000.

PG&E GT–NW states that filing is being made to implement its semi-annual fuel charge adjustment in compliance with Paragraph 37 of the General Terms and Conditions of its Tariff.

PG&E GT–NW states that copies of the filing have been served upon all jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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 proceedings. 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 in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–32041 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–108–000]

Questar Pipeline Company; Notice of Tariff Filing

December 6, 1999.

Take notice that pursuant on December 1, 1999, Questar Pipeline Company (Questar) tendered for filing of its FERC Gas Tariff, the following tariff sheets, to be effective January 1, 2000:

First Revised Volume No. 1

Thirteenth Revised Sheet No. 5

Original Volume No. 3

Twenty-Fourth Revised Sheet No. 8

Questar states that the tendered tariff sheets show a revised Fuel Gas Reimbursement Percentage (FGRP) of 2.4%, replacing the currently effective 1.9% for tracking fuel-use and lost-and-unaccounted-for gas. The difference of 0.5% is to reflect the increase in fuel, lost and unaccounted for gas from the current FGRP rate of 1.6% to 2.1%, for the prospective 12 months ending December 31, 2000. Questar states that there is no change in the 0.3% in the amortization rate for the prospective 12 months ending December 31, 2000.

Questar further states that the revised FGRP is filed pursuant to Section 12.14 of the General Terms and Conditions of Part 1 of Questar's tariff, First Revised Volume No. 1.

Questar states that a copy of this filing has been served upon Questar's customers, the Public Service Commission of Utah and the Public Service Commission of Wyoming.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. 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 proceedings. 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 in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–32040 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–110–000]

Viking Gas Transmission Company; Notice of Tariff Filing

December 6, 1999.

Take notice that on December 1, 1999, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective January 1, 2000.

Viking states that the purpose of this filing is to implement new interruptible park and loan (PAL) services under Rate Schedule PAL to provide Viking's shippers with greater flexibility in managing their transportation and balancing needs and to augment Viking's existing transportation services.

Viking states that copies of this filing have been served on all of Viking's jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 of 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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 proceedings. 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 in the Public Reference

Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–32042 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–111–000]

Viking Gas Transmission Company; Notice of Tariff Filing

December 6, 1999.

Take notice that on December 1, 1999, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised volume No. 1 the following tariff sheets to become effective January 1, 2000:

Nineteenth Revised Sheet No. 6
Twelfth Revised Sheet No. 6A
First Revised Sheet No. 6B

Viking states that the purpose of this filing is to change Viking's Gas Research Institute Adjustment (GRI Adjustment) as permitted by Sections 154.204 and 154.401 of the Commission's Rules and Regulations, 18 CFR 154.204, 154.401 and in accordance with the Commission's September 29, 1999 ''Order Approving the Gas Research Institute's 1999 Research, Development and Demonstration Program and 2000–2004 Five Year Plan,'' issued in Docket No. RP99–323–000, 88 FERC ¶ 61,293 (September 29, 1999 Order). Viking's authority to make this filing is set forth in Article XVIII of the General Terms and Conditions of Viking's FERC Gas Tariff, First Revised Volume No. 1.

Accordingly, Viking's GRI Adjustment has been changed to reflect the Commission's September 29, 1999 Order as follows: a demand/reservation surcharge of 20 cents per Dth per month for ''high load factor customers;'' a demand/reservation surcharge of 12.3 cents per Dth per month for ''low load factor customers;'' and a volumetric commodity/usage surcharge of .72 cents per Dth.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. 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 proceedings. Any person wishing top 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 in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–32043 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–659–015, et al.]

Bonneville Fuels Management Corporation, et al.; Electric Rate and Corporate Regulation Filings

December 2, 1999.

Take notice that the following filings have been made with the Commission:

1. Bonneville Fuels Management Corporation

[Docket No. ER96–659–015]

Take notice that on November 29, 1999, Bonneville Fuels Management Corporation filed their quarterly report for the quarter ending September 30, 1999, for information only.

2. NESI Power Marketing, Inc.

[Docket No. ER97–841–011]

Take notice that on November 30, 1999, NESI Power Marketing, Inc. filed their quarterly report for the quarter ending September 30, 1999, for information only.

3. Rochester Gas and Electric Corporation

[Docket No. ER00–339–000]

Take notice that on November 24, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing revised First Revised Sheet Nos. 86 and 87 of RG&E's Open Access Transmission Tariff setting forth the security provisions of RG&E's state Distribution Tariff.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Avista Corporation

[Docket No. ER99–55–003]

Take notice that on November 30, 1999, Avista Corporation (Avista Corp.), tendered for filing revised Rate Schedules E, I and J under its FERC Electric Tariff Volume No. 9 in compliance with the Commission's Order of November 1, 1999.

Comment date: December 20, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Central Illinois Light Company

[Docket No. ER99–4378–002]

Take notice that on November 26, 1999, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission amendments to CILCO's Open Access Transmission Tariff to comply with the Commission's October 28, 1999 Order in this docket.

CILCO requested an effective date of October 1, 1999 for these amendments.

Copies of the filing were served on all affected customers, the Illinois Commerce Commission, and the service list in this docket.

Comment date: December 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc.; LIPA; New York State Electric & Gas Corporation; Niagara Mohawk Power Corporation; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; New York Power Pool; New York Independent System Operator

[Docket No. ER00–556–000]

Take notice that on November 17, 1999, the New York Independent System Operator, Inc. (NYISO), tendered for filing Third Revised Sheet No. 144 for the ISO Open Access Transmission Tariff.

The NYISO requests an effective date as the date on which the NYISO commences operations and requests waiver of the Commission's notice requirements.

A copy of this filing was served upon all persons on the Commission's official service list in Docket No. ER97–1523–000, OA97–470–000 and ER97–4234–000, not consolidated, and the respective electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: December 13, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. American Electric Power Service Corporation, Inc.

[Docket No. ER00–661–000]

Take notice that on November 29, 1999, American Electric Power Service Corporation, Inc., tendered for filing a Transmission Reassignment Tariff.

Comment date: December 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Rochester Gas and Electric Corporation

[Docket No. ER00–662–000]

Take notice that on November 29, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement between RG&E and NYSEG Solutions (Transmission Customer) for service under RG&E's open access transmission tariff. Specifically dealing with the ''Retail Access Program'' under RG&E's open access transmission tariff.

RG&E requests waiver of the Commission's notice requirements for good cause shown and an effective date of November 1, 1999 for the NYSEG Solutions Service Agreement A copy of this Service Agreement has been served on the Transmission Customer and the New York Public Service Commission.

Comment date: December 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. KinEr-G Power Marketing, Inc.

[Docket No. ER00–660–000]

Take notice that on November 26, 1999, KinEr-G Power Marketing, Inc. (KPMI), tendered for filing notice that effective November 22, 1999, Rate Schedule FERC No. 1, effective April 30, 1996 in Docket No. ER96–1139–000 and filed with the Federal Energy Regulatory Commission by KPMI is to be canceled.

KinEr-G Power Marketing, Inc., never participated in any transactions of any kind, therefore no notice of cancellation has been served upon any other entities.

Comment date: December 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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 these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–32005 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–339–001, et al.];

Rochester Gas and Electric Corporation, et al.; Electric Rate and Corporate Regulation Filings

December 1, 1999.

Take notice that the following filings have been made with the Commission:

1. Rochester Gas and Electric Corporation

[Docket No. ER00–339–001]

Take notice that on November 24, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing revised First Revised Sheet Nos. 86 and 87 of RG&E's Open Access Transmission Tariff setting forth the security provisions of RG&E's state Distribution Tariff.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Water Company, d/b/a Bear Valley Electric, Complainant, v. Southern California Edison Company, Respondent

[Docket No. EL00–20–000]

Take notice that on November 30, 1999, Southern California Water Company, d/b/a Bear Valley Electric, tendered for filing a complaint against Southern California Edison Company alleging that a certain contractual arrangement between the parties should either be terminated or deemed to have already been terminated.

Comment date: December 20, 1999, in accordance with Standard Paragraph E at the end of this notice. Answer to the Complaint shall also be due on or before December 20, 1999.

3. Tennessee Power Company

[Docket No. EL99–81–002]

On September 17, 1999, the Commission issued an ''Order Conditionally Accepting Compliance Filing, As Modified,'' in the above-docketed proceeding. Requests for Rehearing were due to be filed on or before October 18, 1999. On November 2, 1999, the Tennessee Power Company (Tennessee Power) filed a Request for Rehearing.

Section 313(a) of the Federal Power Act[1] requires an aggrieved party to file a request for rehearing within thirty days after the issuance of the Commission's order, in this case October 18, 1999. Because the 30-day deadline for requesting rehearing is statutorily based, it cannot be extended and Tennessee Power's request for rehearing must be rejected as untimely.

4. Seagull Power Services, Inc.

[Docket No. ER00–572–000]

Take notice that on November 24, 1999, Seagull Power Services, Inc., tendered for filing Notice that effective upon the start date of Rate Schedule FERC No. 1 (January 13, 1996), and any supplements thereto, filed with the Federal Energy Regulatory Commission by Seagull Power Services, Inc., is to be canceled.

No notice of proposed cancellation to outside parties is required since no transactions occurred under this rate schedule.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Fitchburg Gas and Electric Light Company

[Docket No. ER00–641–000]

Take notice that on November 24, 1999, Fitchburg Gas and Electric Light Company (Fitchburg) filed out-of-time a service agreement between Fitchburg and Indeck Pepperell Power Associates, Inc. for service under Fitchburg's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2463–000.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Unitil Power Corp.

[Docket No. ER00–642–000]

Take notice that on November 24, 1999, Unitil Power Corp. (UPC), tendered for filing a service agreement between UPC and Indeck Pepperell Power Associates, Inc., for service under

[1] 16 U.S.C. 8251.

UPC's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2460–000.

UPC requests an effective date of November 22, 1999.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Deseret Generation and Transmission Co-operative, Inc.

[Docket No. ER00–643–000]

Take notice that on November 24, 1999, Deseret Generation & Transmission Co-operative, Inc. (Deseret), tendered for filing an executed Power Sale Confirmation Agreement between Deseret and Constellation Power Source, Inc., regarding a long-term power purchase and sale transaction under the Western Systems Power Pool Agreement.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. Calpine Corporation

[Docket No. ER00–644–000]

Take notice that on November 24, 1999, Calpine Corporation (Calpine), on behalf of O'Brien (Philadelphia) Cogeneration, Inc. (OPCI), tendered for filing under Section 205 of the Federal Power Act, a rate schedule under which OPCI will sell energy, capacity and ancillary services at market-based rates and for the reassignment of transmission capacity. Calpine also submitted, on behalf of OPCI, an unexecuted agreement under which OPCI will sell energy, capacity and ancillary services to Calpine Power Services Company (CPSC).

Calpine requests effective dates for OPCI's proposed tariff and the agreement between OPCI and CPSC concurrent with closing of the merger between its corporate parent, Cogeneration Corporation of America, and a subsidiary of Calpine.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Minnesota Power, Inc.

[Docket No. ER00–645–000]

Take notice that on November 24, 1999, Minnesota Power, Inc., tendered for filing a signed Service Agreement with UtiliCorp United Inc. and with OGE Energy Resources, Inc., under its market-based Wholesale Coordination Sales Tariff (WCS–2) to satisfy its filing requirements under this tariff.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Rochester Gas and Electric Corporation

[Docket No. ER00–646–000]

Take notice that on November 24, 1999, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement between RG&E and the Northeast Energy Services, Inc. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of November 1, 1999, for the Northeast Energy Services, Inc., Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Western Resources, Inc.

[Docket No. ER00–647–000]

Take notice that on November 24, 1999, Western Resources, Inc., tendered for filing an agreement between Western Resources, Inc., and Citizen Power Sales. Western Resources states that the purpose of the agreement is to permit the customer to take service under Western Resources' Market Based Power Sales Tariff on file with the Commission.

This agreement is proposed to be effective December 1, 1999.

Copies of the filing were served upon Citizen Power Sales and the Kansas Corporation Commission.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. PacifiCorp

[Docket No. ER00–648–000]

Take notice that on November 24, 1999, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Long-term Firm Point-To-Point Transmission Service Agreement with British Columbia Power Exchange Corporation (Powerex) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. FirstEnergy System

[Docket No. ER00–649–000]

Take notice that on November 24, 1999, FirstEnergy System tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for: Conectiv Energy Supply, Inc., the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective date under this Service Agreement is November 10, 1999.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. PP&L Montana, LLC

[Docket No. ER00–650–000]

Take notice that on November 24, 1999, PP&L Montana, LLC (PP&L Montana), filed with the Federal Energy Regulatory Commission a letter approving its membership in the Western Systems Power Pool (WSPP).

PP&L Montana requests that the Commission to allow its membership in the WSPP to become effective on November 25, 1999.

PP&L Montana states that a copy of this filing has been provided to the WSPP Executive Committee, Michael E. Small, Esq., General Counsel to the WSPP and the members of the WSPP.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER00–651–000]

Take notice that on November 24, 1999, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Short-term Firm and Non-firm Point-To-Point Transmission Service Agreements with City of Seattle, City Light Department (Seattle) and Idaho Power Company (Idaho) under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Northern Indiana Public Service Company

[Docket No. ER00–652–000]

Take notice that on November 24, 1999, Northern Indiana Public Service

Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Edison Mission Marketing & Trading, Inc., (Transmission Customer).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Transmission Customer pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of November 26, 1999.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Illinova Power Marketing, Inc.

[Docket No. ER00–653–000]

Take notice that on November 24, 1999, Illinova Power Marketing, Inc. (IPMI), tendered for filing an Electric Power Transaction Service Agreement under which certain customers will take service pursuant to IPMI's power sales tariff, Rate Schedule FERC No. 1.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Commonwealth Edison Company

[Docket No. ER00–654–000]

Take notice that on November 24, 1999, Commonwealth Edison Company (ComEd), tendered for filing a Non-Firm Transmission Service Agreement supplemented by a Network Upgrade Agreement with Enron Energy Services, Inc., (EES), and, a Firm Transmission Service Agreement with Wisconsin Electric Power Company (WEPCO), under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of November 24, 1999, for the non-firm service agreement with EES, and an effective date of November 1, 1999, for the firm service agreement and network upgrade agreement with WEPCO, and accordingly, seeks waiver of the Commission's notice requirements.

Copies of this filing were served on EES and WEPCO.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Pennsylvania Electric Company; GPU Generation, Inc.

[Docket No. ER00–655–000]

Take notice that on November 24, 1999, Pennsylvania Electric Company (Penelec) and GPU Generation, Inc. (Genco), tendered for filing an Amendment of the Conemaugh Operating Agreement (Amendment). The Amendment terminates the right and obligation of Genco (as Penelec's assignee) to operate and maintain the Conemaugh switching station, but continues the right and obligation of Genco (as Penelec's assignee) to operate and maintain the Conemaugh Station.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. The United Illuminating Company

[Docket No. ER00–656–000]

Take notice that on November 24, 1999, The United Illuminating Company (UI), tendered for filing with the Federal Energy Regulatory Commission an updated market analysis and a request to extend its authority to charge market-based rates to transactions involving the sale of certain ancillary services in the NEPOOL, PJM and NY–ISO control areas. Specifically UI requests authorization to sell at market-based rates within NEPOOL the following ancillary services: Automatic Generation Control; Ten-Minute Spinning Reserves; Ten-Minute Non-Spinning Reserves, and Thirty-Minute Operating Reserves; within the PJM Control Area the following services: Energy Imbalance and Operating Reserves (*i.e.,* Spinning Reserves, Ten-Minute Reserves and Thirty-Minute Reserves); and within the New York Control Area the following services: Ten-Minute Non-Synchronous Reserves and Thirty-Minute Reserves.

UI requests waiver of notice to permit its proposed rate schedule to become effective on January 1, 2000.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Pacific Gas and Electric Company

[Docket No. ER00–657–000]

Take notice that on November 24, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing several agreements between PG&E and East Bay Municipal Utility District (EBMUD) (collectively, Parties) providing for special facilities and the parallel operation of EBMUD's Pardee and Camanche Powerhouses and PG&E's electrical system PG&E is filing the following agreements for each of the Pardee and Camanche Powerhouses, all dated October 13, 1999: (1) an agreement for Installation or Allocation of Special Facilities for Parallel Operation of Nonutility-Owned Generation and/or Standby Service (Special Facilities Agreements); (2) a Generation Operating Agreement; (3) a Parallel Operation Agreement.

These Special Facilities Agreements permit PG&E to recover the ongoing costs associated with owning, operating and maintaining the Special Facilities including the cost of any alterations and additions. As detailed in the Special Facilities Agreements, PG&E proposes to charge EBMUD a monthly Cost of Ownership Charge equal to the rate for transmission-level, utility-financed facilities in PG&E's currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC). PG&E's currently effective rate of 1.1406% for transmission-level, utility-financed Special Facilities is contained in the CPUC's Advice Letter 1960–G/1587–E, effective August 5, 1996, a copy of which was included in PG&E's August 6, 1999 filing in FERC Docket No. ER99–4045–000 as Attachment 3.

PG&E has requested permission to use automatic rate adjustments whenever the CPUC authorizes a new Electric Rule 2 Cost of Ownership Rate for transmission-level, utility-financed Special Facilities but cap the rate at 1.49% per month.

Copies of this filing have been served upon EBMUD and the CPUC.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Pacific Gas and Electric Company

[Docket No. ER00–658–000]

Take notice that on November 24, 1999, Pacific Gas and Electric Company (PG&E), tendered for filing a New Generator Interconnection Policy, consisting of: (1) a Pro Forma Generator Interconnection Agreement (GIA); (2) a Pro Forma Agreement for Installation or Allocation of Special Facilities for Parallel Operation of Non-Utility Owned Generation (GSFA); and (3) a Pro Forma Generator Interconnection Policy (collectively, the Pro Forma Agreements).

The GSFA will permit PG&E to recover the ongoing costs associated with owning, operating and maintaining such Special Facilities that are needed to allow for the parallel operation of a Customer's generation source and PG&E's electrical system, including the cost of any alterations and additions. At the time of filing executed Pro Forma Agreements, PG&E will charge either an Equivalent One-Time Payment or a

monthly Cost of Ownership Charge equal to the rate for transmission-or distribution-level, utility-or customer-financed facilities in PG&E's then-currently effective Electric Rule 2, as filed with the California Public Utilities Commission (CPUC). PG&E's currently effective Special Facilities rates are contained in the CPUC's Advice Letter 1960–G/1587–E, effective August 5, 1996, a copy of which was included in PG&E's August 6, 1999 filing in FERC Docket No. ER99–4045–000 as Attachment 3.

Copies of this filing have been served upon the East Bay Municipal Utility District and the CPUC.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Deseret Generation and Transmission Co-operative, Inc.

[Docket No. ER00–659–000]

Take notice that on November 24, 1999, Deseret Generation & Transmission Co-operative, Inc. (Deseret), tendered for filing an executed Power Sale Confirmation Agreement between Deseret and Constellation Power Source, Inc., regarding a long-term power purchase and sale transaction under the Western Systems Power Pool Agreement.

Comment date: December 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. UtiliCorp United Inc. and St. Joseph Light & Power Company; UtiliCorp United Inc. and The Empire District Electric Company

[Docket Nos. EC00–27–000 and EC00–28–000]

Take notice that on November 23, 1999, UtiliCorp United Inc. (UtiliCorp) and St. Joseph Light & Power (St. Joseph) and UtiliCorp and The Empire District Electric Company (Empire) (collectively, the Applicants) filed a Joint Application pursuant to Section 203 of the Federal Power Act and Part 33 of the Commission's regulations requesting authorization and approval of proposed mergers and resulting dispositions of jurisdictional facilities between UtiliCorp and St. Joseph and UtiliCorp and Empire. In both transactions, UtiliCorp will be the surviving corporation and will continue to provide electric service through separate control areas in Colorado, Missouri-Kansas, and West Virginia. The mergers will not affect any contract for the purchase, sale, or interchange of electric energy since the merging companies will continue to operate as separate entities.

The Applicants have submitted testimony and other evidence in support of the request that the mergers be approved. The Applicants have requested that the Commission issue its approval of the merger expeditiously without conducting an evidentiary hearing.

Comment date: January 24, 2000, in accordance with Standard Paragraph E at the end of this notice.

25. California Power Exchange Corporation

[Docket Nos. EL99–75–002, EC96–19–051, and ER96–1663–053]

Take notice that on November 24, 1999, the California Power Exchange Corporation (PX) tendered for filing certain amendments to its bylaws. CalPX states that this filing is in compliance with the Commission's October 30, 1997 order in Docket Nos. EC96–19–000, et al. and its declaratory order issued August 5, 1999 in Docket No. EL99–75–000.

Comment date: December 27, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. American Energy Trading, Inc.

[Docket No. ER97–360–012]

Take notice that on November 22, 1999, American Energy Trading, Inc. filed their quarterly report for the quarter ending September 30, 1999, for information only.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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 these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–32004 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP00–14–000]

Buccaneer Gas Pipeline Company, L.L.C.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Buccaneer Gas Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings and Site Visits

December 6, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) and the Minerals Management Service (MMS) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Buccaneer Gas Pipeline Project involving construction and operation of facilities by Buccaneer Gas Pipeline Company, L.L.C. (Buccaneer) in Alabama, the Gulf of Mexico, and Florida.[1] These facilities would consist of about 674 miles of various diameter pipeline, 75,000 horsepower (hp) of compression, 14 metering and regulating (M&R) stations, and a liquids separation facility. Due to the division of proposed facilities between onshore and offshore areas, the FERC will focus on analysis of onshore issues. The MMS will have primary responsibility for offshore analysis and will coordinate with the Army Corps of Engineers regarding state waters review. This EIS will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity. The application and other supplemental filings in this docket are available for viewing on the FERC Internet website (www.ferc.fed.us). Clock on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. General information about the MMS and detailed information regarding the Gulf of Mexico can be accessed at the MMS Internet website (www.mms.gov).

If you are a landowner receiving this notice, you may be contacted by a

[1] Buccaneer's application was filed with the Commission on October 28, 1999, under section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

The FERC is the lead agency for the EIS. The MMS is a Federal cooperating agency for this project because the MMS has jurisdiction by law as well as special expertise regarding the potential environmental impacts associated with that portion of the proposed pipeline that would be installed on the Outer Continental Shelf.

Additionally, with this notice we are asking a number of Federal and State agencies (see appendix 2) with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their agencies' responsibilities.

The FERC is concurrently issuing a Notice of Intent to prepare an EIS for the Gulfstream Project, Docket No. CP00–6–000. Both the Buccaneer and Gulfstream Projects share a similar point of origin, cross the Gulf of Mexico, and reach landfall near Tampa, Florida. Furthermore, the two projects could potentially serve some of the same markets in Central Florida, particularly in Polk County. For these reasons we are asking your help on how to evaluate these projects. We are also soliciting comments on the preparation of a single EIS on both projects, or a separate EIS on each project. We will hold joint scoping meetings at locations where we believe there is a reasonable amount of overlap of the potentially affected parties. Maps showing the proposed Buccaneer Project are in appendix 3 and maps showing the location of both projects are included in appendix 4.

Summary of the Proposed Project

Buccaneer proposes to construct and operate a new natural gas pipeline system with a transportation capacity of approximately .9 billion cubic feet per day from the Mobile Bay area in Alabama to markets in Florida. The State of Florida is experiencing a substantial increase in demand for electric power that is tied to the growth of population in the state. Specifically, Buccaneer seeks authority to construct and operate the following:

- About 411.2 miles of 36-inch-diameter pipeline from Mobile County, Alabama, across the Gulf of Mexico to a point in Pasco County, Florida.
- About 121.5 miles of 36-inch-diameter pipeline in Pasco, Polk, Osceola, and Orange Counties, Florida;
- About 141.5 miles of 16- to 30-inch-diameter laterals in Pasco, Polk, Hardee, Lake, Osceola, Orange, and Brevard Counties, Florida;
- 14 M&R stations in Mobile County, Alabama and Pasco, Polk, Hardee, Lake, Osceola, Orange, and Brevard Counties, Florida; and
- A new 75,000 hp compressor station in Mobile County, Alabama and a new Liquids Separation Facility in Pasco County, Florida.

The proposed facilities are summarized in tables 1, 2, and 3 below. The general location of the project facilities is shown in appendix 3. If you are interested in obtaining detailed maps of a specific portion of the project send in your request using the form in appendix 6.

Land Requirements for Construction

Construction of onshore pipeline facilities for the Buccaneer Gas Pipeline Project would affect a total of about 3,851 acres of land including 3,610 acres required for pipeline construction and extra workspace, 46 acres for construction of the aboveground facilities, and 195 acres for contractor, mobilization, and pipe storage yards. Over 70 construction access road locations have been identified. Total land requirements for the onshore permanent right-of-way would be about 1,628 acres. The remaining 2,223 acres of onshore land affected by construction would be restored and returned to its former use.

Approximately 184 miles (70 percent) of the proposed onshore pipelines in Florida would be installed within or adjacent to various existing utility rights-of-way. Buccaneer would typically use a 110-foot-wide construction right-of-way width for the 36-inch- and 30-inch-diameter pipelines. In general, the construction right-of-way width for the 24-inch to 16-inch-diameter lateral pipelines would be from 100 to 75 feet in width. Additional extra temporary work areas may be necessary for waterbody, highway and railroad crossings, additional topsoil storage, and pipe storage and equipment yards.

Following construction and restoration of the right-of-way and temporary work spaces, Buccaneer would generally retain a new 50-foot-wide permanent easement. The remaining portion of the construction right-of-way would be temporary and returned to landowners for their use without restrictions after appropriate reclamation efforts are successful.

Constructing the offshore portion of the Buccaneer Gas Pipeline Project would affect about 1,825 acres of sea floor. Land requirements for operation of the offshore permanent right-of-way would be about 9,866 acres (based on MMS-required 200-feet-wide operation right-of-way width which is greater than the proposed construction right-of-way width).

TABLE 1.—PROPOSED MAINLINE PIPELINES FOR THE BUCCANEER GAS PIPELINE PROJECT

Facility/County or marine area	Mileposts begin–end	Segment length (miles)	Diameter (inches)	County, State
Alabama Mainline:				
Mobile County	0.00–4.14	4.14	36″	Mobile County.
Offshore	4.14–16.66	12.52	36″	State Waters.
Subtotal		16.66		Alabama.
Gulf of Mexico Mainline:				

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

TABLE 1.—PROPOSED MAINLINE PIPELINES FOR THE BUCCANEER GAS PIPELINE PROJECT—Continued

Facility/County or marine area	Mileposts begin–end	Segment length (miles)	Diameter (inches)	County, State
Mobile	16.66–50.91	34.25	36″	Gulf of Mexico.
Pensacola	50.91–105.01	54.10	36″	Gulf of Mexico.
Destin Dome	105.01–187.13	82.12	36″	Gulf of Mexico.
Apalachicola	187.13–214.79	27.66	36″	Gulf of Mexico.
Florida Middle Ground	214.79–331.63	116.84	36″	Gulf of Mexico.
Tarpon Springs	331.63–393.43	61.80	36″	Gulf of Mexico.
Subtotal		376.77		Gulf of Mexico.
Florida Mainline:				
Offshore	393.43–411.12	17.69	36″	State Waters.
Pasco County	411.12–411.21	0.09	36″	Pasco County.
Pasco County	0.000–46.24	46.24	36″	Pasco County.
Polk County	0.00–38.95	38.95	36″	Polk County.
Osceola County	0.00–15.59	15.59	36″	Osceola County.
Orange County	0.00–20.68	20.68	36″	Orange County.
Subtotal		139.24		Florida.
Total Mainline		532.67		

TABLE 2.—PROPOSED LATERAL PIPELINES FOR THE BUCCANEER GAS PIPELINE PROJECT

Lateral	Mileposts begin–end	Length (miles)	Diameter (inches)	County, State
Anclote	0.00–0.10	0.10	16″	Pasco County, FL.
Lakeland Interconnect	0.00–0.26	0.26	16″	Polk County, FL.
Tiger Bay	0.00–37.99	37.99	30″	Polk County, FL.
Hines	0.00–2.85	2.85	20″	Polk County, FL.
Polk	0.00–1.52	1.52	20″	Polk County, FL.
Payne Creek	0.00–14.04	14.04	20″	Polk County, FL.
	14.04–14.88	0.84	20″	Hardee County, FL.
Leesburg	0.00–9.52	9.52	24″	Polk County, FL.
	9.52–46.60	37.08	24″	Lake County, FL.
Intercession City	0.00–0.28	0.28	16″	Osceola County, FL.
Cane Island	0.00–0.13	0.13	16″	Osceola County, FL.
Stanton	0.00–0.78	0.78	16″	Orange County, FL.
Oleander	0.00–19.21	19.21	30″	Orange County, FL.
	19.21–25.21	6.00	30″	Brevard County, FL.
	25.21–34.68	9.47	24″	Brevard County, FL.
Indian River	0.00–0.29	0.29	18″	Brevard County, FL.
Cape Canaveral	0.00–1.11	1.11	18″	Brevard County, FL.
Total Laterals		141.47		

TABLE 3.—ABOVEGROUND FACILITIES FOR THE BUCCANEER GAS PIPELINE PROJECT

Facility	Mainline/lateral	Milepost	Maximum volume MMcf/day	County, State
				Alabama
Compressor Station 1	Alabama Mainline	0.00	900	Mobile County
Buccaneer Meter Station	Alabama Mainline	0.00	900	Mobile County
				Florida
Liquids Separation Facility	Pasco County Mainline	0.00	900	Pasco County
Anclote M&R	Anclote Lateral	0.10	100	Pasco County
Lakeland Interconnect M&R	Lakeland Interconnect Lateral	0.26	100	Polk County
Tiger Bay M&R	Tiger Bay Lateral	37.44	120	Polk County
Hines M&R	Hines Lateral	2.85	120	Polk County

TABLE 3.—ABOVEGROUND FACILITIES FOR THE BUCCANEER GAS PIPELINE PROJECT—Continued

Facility	Mainline/lateral	Milepost	Maximum volume MMcf/day	County, State
Polk M&R	Polk Lateral	1.52	120	Polk County
Payne Creek M&R	Payne Creek Lateral	14.88	120	Hardee County
Leesburg M&R	Leesburg Lateral	46.60	170	Lake County
Intercession City M&R	Intercession City Lateral	0.28	60	Osceola County
Cane Islane M&R	Cane Island Lateral	0.13	100	Osceola County
Stanton M&R	Stanton Lateral	0.78	80	Orange County
Oleander M&R	Oleander Lateral	34.68	220	Brevard County
Indian River M&R	Indian River Lateral	0.29	100	Brevard County
Cape Canaveral M&R	Cape Canaveral Lateral	1.11	100	Brevard County

MMcf/day = Million cubic feet per day.
M&R = meter and regulating station.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EIS. All comments received are considered during the preparation of the EIS. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology, mineral resources, and soils
- Water resources, fisheries, and wetlands
- Coastal and marine resources
- Vegetation and wildlife
- Endangered and threatened species
- Land ownership and use
- Recreation and public interest areas
- Visual resources and aesthetics
- Cultural resources
- Air quality and noise
- Hazardous waste
- Socioeconomics
- Pipeline safety
- Alternatives

Our independent analysis of the issues will be in the Draft EIS which will be mailed to Federal, state, and local agencies, public interest groups, affected landowners and other interested individuals, newspapers, libraries, and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the Draft EIS. We will consider all comments on the Draft EIS and revise the document, as necessary, before issuing a Final EIS. The Final EIS will include our response to each comment received and will be used by the Commission in its decision-making process to determine whether to approve the project.

To ensure that your comments are considered, please carefully follow the instructions in the public participation section beginning on page 9.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project. FERC and MMS have already identified a number of issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Buccaneer. Some of these issues are listed below. This is a preliminary list of issues and will be changed based on your comments and our analysis. Currently identified environmental issues for the Buccaneer Gas Pipeline Project include:

—Effect of construction on 136 perennial waterbody crossings, including about 39 waterbodies 100 feet wide or greater;
—Crossing six waterbodies classified as Outstanding Florida Waters;
—Erosion control and potential for sediment transport to waterbodies and wetlands;
—Effect of construction on aquifers at or near the land surface;
—Effect of construction on 448 wetland crossings, including about 129 acres of permanent alteration of wetlands;
—Clearing of about 825 acres of forest;
—Effect on wildlife, fisheries, and rare plant habitats, both onshore and offshore;
—Potential to affect 58 federally endangered and threatened species and 116 state-protected species including the bald eagle, Florida scrub jay, red-cockaded woodpecker, Atlantic gulf sturgeon, and West Indian manatee;
—Effect on marine resources, including subsurface geology, live bottom habitat, seagrass beds, and essential fish habitat;
—Potential to affect commercial and recreational boating operations;
—Potential to affect military marine training operations;
—Potential for sinkhole formation and flooding;
—Construction through or along the edge of active or inactive surface mines;
—Effect on historic and prehistoric archaeological sites and historic structures;
—Impact on about 206 residences potentially within 50 feet of the construction right-of-way;
—Potential impact on 11 planned residential areas and 19 Developments of Regional Impact;
—Potential introduction and control of non-native species;
—Effect on speciality crops such as citrus groves;
—Effect on public lands and special use areas including the Pinellas County Aquatic Preserve, Green Swamp, Starkey Wilderness Park, Tasohatchee State Preserve, and Brevard Coastal Scrub Ecosystem;
—Effect on bird rookeries;
—Visual effect of above ground facilities on surrounding areas;
—Effect on local air quality and noise environment as a result of compressor station operations; and
—Combined effect of the proposed project with other projects, including other natural gas pipelines, which

have been or may be proposed in the same region and similar time frames.

Public Participation and Scoping Meetings

You can make a difference by providing us with our specific comments or concerns about the project. By becoming a commenter, your concerns will be addressed in the EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your comments to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch II, PR–11.2.
- Reference Docket No. CP00–14–000.
- Mail your comments so that they will be received in Washington, DC on or before *January 21, 2000.*

In addition to or in lieu of sending written comments, we invite you to attend the public scoping meetings the FERC will conduct in the project area. The locations and times for these meetings are listed below.

SCHEDULE OF PUBLIC SCOPING MEETINGS FOR THE BUCCANEER GAS PIPELINE PROJECT ENVIRONMENTAL IMPACT STATEMENT

Date and Time	Location	Phone
January 4, 2000; 7:00 p.m.	Mobile Convention Center, 1 South Water Street, Mobile, Alabama [3]	334–208–2128
January 5, 2000; 7:00 p.m.	Clarion Hotel, 5316 U.S. Highway 19, New Port Richey, Florida	727–847–9005
January 11, 2000; 7:00 p.m.	Florida Dept. of Agriculture and Consumer Services, The Florida Room, 500 3rd Street, NW, Winter Haven, Florida [3].	863–291–5820
January 12, 2000; 7:00 p.m.	Holiday Inn, 2145 E. Irlo Bronson Memorial Hwy, Kissimmee, Florida.	407–846–4646
January 13, 2000; 7:00 p.m.	City of Titusville Council Chambers, 55 South Washington Avenue, Titusville, Florida.	321–383–5774

The public meetings are designed to provide you with more detailed information and another opportunity to offer your comments on the proposed project. Prior to the start of the meetings, company representatives will be available to informally discuss the project. At 7:00 p.m. each company will provide a summary discussion of the project (about 10 minutes each). Then the comment period will begin. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the Draft EIS. A transcript of each meeting will be made so that your comments will be accurately recorded.

On the dates of the meetings, our staff will also be visiting some project areas. Anyone interested in participating in a site visit may contact the Commission's Office of External Affairs identified at the end of appendix 1 of this notice for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EIS scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214)(see appendix 5). Only intervenors have the right to seek rehearing of the Commission's decision.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. As details of the project become established, representatives of Buccaneer Gas Pipeline Project may also separately contact landowners, communities, and public agencies concerning project matters, including acquisition of permits and rights-of-way.

All commenters will be retained on our mailing list. If you do not want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EISs, you must return the Information Request (appendix 6). If you do not send comments or return the Information Request, you will be taken off the mailing list.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of external Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the

[3] Scoping meetings at Mobile, Alabama and Winter Haven Florida would involve joint meetings for the Buccaneer and Gulfstream Projects.

CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 99–32007 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Commission

Gulfstream Natural Gas System, L.L.C.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Gulfstream Pipeline Project, Request for comments on Environmental Issues, and Notice of Public Scoping Meetings and Site Visit

December 6, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) and the Minerals Management Service (MMS) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of the Gulfstream Pipeline Project involving construction and operation of facilities by Gulfstream Natural Gas System, L.L.C. (Gulfstream) in Alabama, Mississippi, the Gulf of Mexico, and Florida.[1] These facilities would consist of about 744 miles of various diameter pipeline, 120,000 horsepower (hp) of compression, a pressure regulating station, 20 meter stations, 3 manifold stations, 5 take-off stations, 25 mainline valve sites, and 17 pig launchers or receivers. This EIS will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity. Due to the division of proposed facilities between onshore and offshore areas, the FERC will focus on analysis on onshore issues. The MMS will have primary responsibility for offshore analysis and will coordinate with the Army Corps of Engineers regarding state waters review. The application and other supplemental filings in this docket are available for viewing on the FERC Internet website (www.ferc.fed.us). Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. General information about the MMS and detailed information regarding the Gulf of Mexico can be accessed at the MMS Internet website (www.mms.gov).

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approve by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law. A fact sheet addressing a number of typically asked questions, including the use of eminent domain, is attached to this notice as appendix 1.[2]

The FERC is the lead agency and the MMS is a federal cooperating agency for this project because the MMS has jurisdiction by law as well as special expertise regarding the potential environmental impacts associated with the portion of the proposed pipeline that would be installed on the Outer Continental Shelf.

Additionally, with this notice we are asking a number of Federal and state agencies (see appendix 2) with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their agencies' responsibilities.

The FERC is concurrently issuing a Notice of Intent to prepare an EIS for the Buccaneer Project, Docket No. CP00–14–000. The gulfstream and Buccaneer Projects share a similar point of origin, cross the Gulf of Mexico, and reach landfall near Tampa, Florida. Furthermore, the two projects could potentially serve some of the same markets in central Florida, particularly in Polk County. For these reasons we are asking your help on how to evaluate these projects. We are soliciting comments on whether to prepare a single EIS for both projects, or a separate EIS for each project. We will hold joint scoping meetings at locations where we believe there is a reasonable amount of overlap of the potentially affected parties. Maps showing the proposed Gulfstream project are in appendix 3 and maps showing the locations of both projects are included in appendix 4.

Summary of the Proposed Project

Gulfstream's proposed project would transport to Florida up to 1.13 billion cubic feet per day of natural gas from sources in Alabama and Mississippi. The State of Florida is experiencing a substantial increase in demand for electric power that is tied to the growth of population in the state.

The proposed Gulfstream project would traverse southeast Mississippi and southwest Alabama, the Gulf of Mexico, and Florida. The natural gas supply line would originate at a supply meter station in Jackson County, Mississippi. Gulfstream seeks authority to construct and operate the following:

- About 11.5 miles of 36-diameter pipeline in Jackson County and in offshore waters of Mississippi;
- About 37.6 miles of 36-inch-diameter pipeline in Mobile County and in offshore waters of Alabama;
- About 378.2 miles of 36-inch-diameter pipeline in federal waters of the Gulf of Mexico and 24.4 miles of 36-inch-diameter pipeline in waters of the State of Florida;
- About 52.7 miles of 36-inch-diameter pipeline in Manatee, Hardee, and Polk Counties, Florida;
- About 122.8 miles of 30-inch-diameter pipeline in Hardee, Highlands, Martin, Okeechobee, and Polk Counties, Florida, and about 101.0 miles of 24-inch-diameter pipeline in Hardee, Polk, Osceola, Martin, St. Lucie, and Palm Beach Counties, Florida;
- About 15.8 miles of 16-inch-diameter sublateral pipeline in Hardee and Polk Counties, Florida;
- 20 metering stations in Jackson county, Mississippi, Mobile County, Alabama and Hardee, Highlands, Okeechobee, St. Lucie, Palm Beach, and Polk Counties, Florida;
- A 120,000-horsepower compressor station in Mobile County, Alabama; and
- Pig launching and/or receiving facilities, a pressure regulator station, and 25 mainline valves at various locations.

Overall, the Gulfstream project would consist of approximately 744 miles of new pipeline. See tables 1 and 2 for a listing of project facilities. The general location of the project facilities is shown in appendix 3. If you are interested in obtaining detailed maps of a specific portion of the project send in your request using the form in appendix 6.

[1] Gulfstream's application was filed with the Commission on October 15, 1999, under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the ''RIMS'' link or from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208–1371. For instructions on connecting to RIMS refer to the last page of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

Land Requirements for Construction

Construction of the onshore portion of the Gulfstream Pipeline Project would affect a total of about 4,922 acres of land including 4,843 acres required for pipeline construction, extra workspace, contractor, pipe storage, and warehouse yards and 79 acres for construction of the aboveground facilities. Total land requirements for the permanent right-of-way would be about 1,811 acres. An additional 44 acres for the operation of the new aboveground facilities would be required. The remaining 3,067 acres of land affected by construction would be restored and allowed to revert to its former use. The offshore portion of the Gulfstream Pipeline Project affect a total of about 9,169 acres of Federal waters and 1,423 acres of state waters during construction and operation.

Approximately 235 miles (77 percent) of the new onshore pipeline would be installed parallel to various existing utility rights-of-way. Gulfstream would typically use a 110-foot-wide construction right-of-way width for 30-inch- and 36-inch-diameter pipeline, a 95-foot-wide construction right-of-way width for 24-inch-diameter pipeline and an 80-foot-wide construction right-of-way width for 16-inch-diameter pipeline. Additional extra temporary work areas may be necessary for water body, highway and railroad crossings, additional topsoil storage, and pipe storage and equipment yards.

Following construction and restoration of the right-of-way and temporary work spaces, Gulfstream would retain a new 50-foot-wide permanent easement for 24-inch-to 36-inch-diameter pipeline, an 75-foot-wide permanent easement for dual 36-inch-diameter pipelines, and a new 30-foot-wide permanent easement for 16-inch-diameter pipeline. The remaining portion of the construction right-of-way would be temporary and returned to landowners for their use without restrictions after appropriate reclamation efforts are successful.

TABLE 1.—PROPOSED PIPELINE FACILITIES FOR THE GULFSTREAM PIPELINE PROJECT

State	County	Pipeline line No.	Diameter (inches)	Mileposts		Length [a] (miles)
				Begin	End	
Mississippi	Jackson	060	36	0.0	5.4	5.4
	Offshore	060	36	5.4	11.5	6.1
Total						11.5
Alabama	Mobile	060	36	22.9	26.7	3.8
		010	24	0.0	0.1	0.1
		040	36	0.0	0.2	0.2
		100	36	0.0	1.5	1.5
		200	36	0.0	3.8	3.8
	Offshore	60/200	36	11.5	22.9	11.5
		200	36	3.8	20.5	16.7
Total						37.6
Federal	Offshore	200	36	20.5	398.7	378.2
Total						378.2
Florida	Offshore, Hillsborough	200	36	398.7	432.0	24.4
	Manatee	200	36	423.0	429.5	6.5
	Manatee	300	36	0.0	28.1	28.4
	Hardee	300	36	28.1	44.3	16.0
	Hardee	310	16	0.6	0.7	0.1
	Hardee	320	16	0.0	0.9	0.9
	Hardee	330	24	0.0	2.1	2.1
	Hardee	500	30	0.5	17.7	17.2
	Highlands	500	30	17.7	56.9	39.5
	Martin	500	30	87.9	88.9	1.8
	Martin	600	24	0.0	6.5	6.4
	Martin	700	24	0.0	14.5	14.3
	Okeechobee	500	30	56.9	87.9	30.4
	Osceolo	450	24	22.3	26.0	3.6
	Palm Beach	700	24	14.5	37.8	23.4
	Palm Beach	710	24	0.0	6.4	6.3
	Polk	300	36	44.3	45.9	1.8
	Polk	310	16	0.0	0.6	0.6
	Polk	330	24	2.1	9.1	7.0
	Polk	400	30	0.0	33.2	33.4
	Polk	450	24	0.0	22.3	22.3
	Polk	410	16	0.0	6.2	6.1
	Polk	430	16	0.0	1.1	1.2
	Polk	440	16	0.0	6.9	6.9
	Polk	500	30	0.0	0.5	0.5
	St. Lucie	600	24	6.5	22.1	15.6
Total						316.7
Project Total						744.0

[a] Mileage based on actual lengths determined in the field. Distances between mileposts vary.

TABLE 2.—SUMMARY OF ABOVEGROUND FACILITIES FOR THE GULFSTREAM PIPELINE PROJECT

State	County	Facility [a]	Line No.	Approximate milepost	Description [b]
Mississippi	Jackson	Station 055	060	0.0	36″ PL/Meters.
		MLV 060–1	060	5.4	36″ MLV.
Alabama	Mobile	Station 100	100	1.5	36″ PL/36″ PR/Compressors.
			060	26.7	
			200	0.0	
		Station 005	010	0.0	Meters.
		Station 035	040	0.0	Meters.
		Station 015	100	0.0	Meters.
		Station 050	100	0.0	Manifold.
		MLV 060–2	060	23.7	36″ MLV
		MLV 200–1	200	3.8	36″ MLV
	Federal	MLV 200–2	200	57.3	36″ MLV/Subsea Valve.
	Federal	MLV 200–3	200	371.3	36″ MLV/Subsea Valve.
Florida	Manatee	Station 200	200	429.5	36″ PL/36″ PR/Pressure.
			300	0.0	
		MLV 200–4	200	424.4	36″ MLV.
		MLV 300–1	300	13.6	36″ MLV.
	Hardee	Station 310	310	0.7	Meters/Heater.
		Station 320	320	0.9	Meters/Heater.
		Station 305	300	36.6	24″ PL/Tie Ins.
			330	0.0	
		Station 315	330	1.2	Side Value Only/Tie Ins.
			320	0.0	
		MLV 300–2	300	28.8	36″ MLV.
		MLV 300–3	300	36.6	36″ MLV in Station 305.
	Highlands	Station 515	500	37.7	Meters/Tie Ins/Heater.
		MLV 500–1	500	20.0	30″ MLV.
		MLV 500–2	500	27.5	30″ MLV.
		MLV 500–3	500	34.0	30″ MLV.
		MLV 500–4	500	37.7	30″ MLV in Station 515.
		MLV 500–5	500	52.1	30″ MLV.
	Okeechobee	Station 505	500	81.6	Meters/Tie Ins.
		MLV 500–6	500	71.7	30″ MLV.
		MLV 500–7	500	81.6	30″ MLV in Station 505.
	Martin	Station 500	500	88.9	24″ & 24″ PL/30″.
			700	0.0	
			600	0.0	
		MLV 700–1	700	11.9	24″ MLV.
	St. Lucie	Station 600	600	22.1	24″ PR/Meters.
		MLV 600–1	600	11.0	24″ MLV.
	Palm Beach	Station 700	700	37.8	24″ PR/24″ PL/Tie.
			710	0.0	
		Station 710	710	6.4	24″ PR/Heater/Meters.
		MLV 700–2	700	24.5	24″ MLV.
	Polk	Station 330	330	9.1	24″ PR/Meters/Heater.
		Station 410	410	6.2	16″ PR/Meters/Heater.
		Station 415	410	2.4	Meters/Tie Ins/Heater.
		Station 430	430	1.1	16″ PR/Meters/Heater.
		Station 435	400	12.4	Meters/Tie Ins/Heater.
		Station 440	440	6.9	16″ PR/Meters/Heater.
		Station 445	400	21.9	Meters/Tie Ins/Heater.
		Station 455	450	18.1	Meters/Tie Ins/Heater.
		Station 300	300	45.9	30″ & 30″ PL/36″.
			400	0.0	
			500	0.0	
		Station 400	400	33.2	16″ & 24″ PL/30″.
			440	0.0	
			450	0.0	
		Station 325	330	2.1	Side Valve Only/Tie Ins.
			310	0.0	
		Station 405	400	7.0	16″ PL/Tie Ins.
			410	0.0	
		Station 425	400	29.1	16″ PL/Tie Ins.
			430	0.0	
		MLV 400–1	400	7.0	30″ MLV in Station 405.
		MLV 400–2	400	16.0	30″ MLV.
		MLV 400–3	400	21.9	30″ MLV in Station 445.
		MLV 400–4	400	29.1	30″ MLV in Station 425.
		MLV 450–1	450	6.8	24″ MLV.
		MLV 450–2	450	18.1	24″ MLV in Station 455.

TABLE 2.—SUMMARY OF ABOVEGROUND FACILITIES FOR THE GULFSTREAM PIPELINE PROJECT—Continued

State	County	Facility [a]	Line No.	Approximate milepost	Description [b]
	Osceola	Station 450	450	26.0	24″ PR/Meters/Heater.

[a] MLV=Mainline Valve.
[b] PL=Pig Launcher, PR=Pig Receiver.

The EIS Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EIS. All comments received are considered during the preparation of the EIS. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology, mineral resources, and soils
- Water resources, fisheries, and wetlands
- Coastal and marine resources
- Vegetation and wildlife
- Endangered and threatened species
- Land ownership and land use
- Recreation and public interest areas
- Visual resources and aesthetics
- Cultural resources
- Air quality and noise
- Hazardous waste
- Socioeconomics
- Pipeline safety
- Alternatives

Our independent analysis of the issues will be in the Draft EIS which will be mailed to Federal, state, and local agencies, public interest groups, affected landowners and other interested individuals, newspapers, libraries, and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the Draft EIS. We will consider all comments on the Draft EIS and revise the document, as necessary, before issuing a Final EIS. The Final EIS will include our response to each comment received and will be used by the Commission in its decision-making process to determine whether to approve the project.

To ensure that your comments are considered, please carefully follow the instructions in the public participation section beginning on page 10.

Currently Identified Environmental Issues

The EIS will discuss impacts that could occur as a result of the construction and operation of the proposed project. The FERC and MMS have already identified a number of issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Gulfstream. Some of these issues are listed below. This is a preliminary list of issues and may be changed based on your comments and our analysis. Currently identified environmental issues for the Gulfstream Pipeline Project include;

—Construction and operational impacts on sea grasses, mangroves, live bottom habitat, and organism migration in Tampa Bay;
—Potential impacts associated with directional drilling, dredging, jetting, rock berm construction methods, and routing alternatives in Tampa Bay;
—Impact on about 77 residences potentially within 50 feet of the construction right-of-way;
—Effect on landowners and future land use;
—Consistency with local land use plans and zoning including effect on future planned development areas such as Developments of Regional Impact, Interstate 4 expansion, Highway 570 development, Port Manatee development, and Saddle Creek Road expansion;
—Construction through or along the edge of active phosphate surface mines;
—Potential for sinkhole formation;
—Effect of construction on the Gulf of Mexico, Mississippi Sound, and on 231 perennial waterbody crossings, including 8 waterbodies 100 feet wide or greater;
—Erosion control and potential for sediment transport to waterbodies and wetlands;
—Effect of construction on groundwater and surface water supplies;
—Effect of construction on 516 wetland crossings, including about 99 acres of permanent alteration of wetlands;
—Clearing of about 272 acres of upland forest and 217 acres of forested wetlands;
—Effect on sensitive areas and habitats of concern including Terra Ceia, Green Swamp, Lake Wales Ridge Ecosystem, Kissimmee River, Trail Ridge, Barley Barber Swamp, and Dupuis Reserve;
—Potential introduction and control of non-native species;
—Effect on specialty crops such as citrus groves and sugar cane;
—Compatibility with the ongoing and proposed restoration projects along the Kissimmee River;
—Effect on wildlife, fisheries including essential fish habitat, and rare plant habitats;
—Impacts on 58 federally endangered and threatened species including the Florida panther, Louisiana black bear, West Indian manatee, American alligator, bald eagle, red-cockaded woodpecker, and Atlantic gulf sturgeon;
—Effect on historic and prehistoric archeological sites and historic structures;
—Effect on public lands and special use areas including Terra Ceia, Little Manatee River Watershed, the Beker property (potential State preserve), Duette Regional Park, Peace River Watershed/Peace River, Charlie Creek Watershed, Tenoroc Fish Management Area, Green Swamp Area of Critical Concern, Arbuckle Creek, Kissimmee River/COE Restoration Project Boundary, Trail Ridge, Barley Barber Swamp, Dupuis Reserve, Everglades Agricultural Area, the Florida National Scenic Trail, and the Sun N' Lakes Preserve, Silver Lake Site, and Carter Creek Conservation and Recreation Lands (CARL) Property;
—Visual effect of aboveground facilities on surrounding areas;
—Effect on local air quality and noise environment as a result of compressor station operations; and

—Combined effect of the proposed project with other projects, including other natural gas pipelines, which have been or may be proposed in the same region and similar time frames.

Public Participation and Scoping Meetings

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.2.
- Reference Docket No. CP00–6–000.
- Mail your comments so that they will be received in Washington, DC on or before January 21, 2000.

In addition to or in lieu of sending written comments, we invite you to attend the public scoping meetings the FERC will conduct in the project area. The locations and times for these meetings are listed below.

SCHEDULE OF PUBLIC SCOPING MEETINGS FOR THE GULFSTREAM PIPELINE PROJECT ENVIRONMENTAL IMPACT STATEMENT

Date and time	Location	Phone
January 4, 2000; 7 p.m.	Mobile Convention Center,[1] 1 South Water Street, Mobile, Alabama.	(334) 208–2128
January 6, 2000; 7 p.m.	Manatee High School, One Hurricane Lane, Bradenton, Florida.	(941) 714–7300
January 11, 2000; 7 p.m.	Florida Dept. of Agriculture, and Consumer Services, The Florida Room, 500 3rd St. NW, Winter Haven, Florida[3].	(863) 291–5820
January 12, 2000; 7 p.m.	Indiantown Civic Center, 15675 S.W. Osceola Street, Indiantown, Florida.	(561) 597–5222
January 13, 2000; 7 p.m.	Sebring High School, 3514 Kenilworth Boulevard, Sebring, Florida.	(863) 471–5500

[1] Scoping meetings at Mobile, Alabama, and Winter Haven, Florida would involve joint meetings for the Buccaneer and Gulfstream Projects.

The public meetings are designed to provide you with more detailed information and another opportunity to offer your comments on the proposed project. Prior to the start of the meetings, company representatives will be available to informally discuss the project. At 7:00 p.m. each company will provide a summary discussion of the project (about 10 minutes each). Then the comment period will begin. Interested groups and individuals are encouraged to attend the meetings and to present comments on the environmental issues they believe should be addressed in the Draft EIS. A transcript of each meeting will be made so that your comments will be accurately recorded.

On the dates of the meetings, the staff will also be visiting some project areas. Anyone interested in participating in a site visit may contact the Commission's Office of External Affairs identified at the end of appendix 1 of this notice for more details and must provide their own transportation.

Becoming an Intervenor

In addition to involvement in the EIS scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 5). Only intervenors have the right to seek rehearing of the Commission's decision.

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late intervenors must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

This notice is being sent to individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. It is also being sent to all identified potential right-of-way grantors. As details of the project become established, representatives of Gulfstream may also separately contact landowners, communities, and public agencies concerning project matters, including acquisition of permits and rights-of-way.

All commenters will be retained on our mailing list. If you do not want to send comments at this time but still want to keep informed and receive copies of the Draft and Final EISs, you must return the Information Request (appendix 6). If you do not send comments or return the Information Request, you will be taken off the mailing list.

Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the

CIPS helpline can be reached at (202) 208–2474.

David P. Boergers,

Secretary.

[FR Doc. 99–32008 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant Prepared Environmental Assessment Accepted for Filing; Requesting Interventions and Protests; Establishing Procedural Schedule and Final Amendment Deadline; Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions; Requesting Reply Comments

December 6, 1999.

Take notice that the following hydroelectric application has been filed with the Commission. An Applicant-Prepared Environmental Assessment (APEA) for the Upper Menominee River Basin Projects which includes the project below, has been filed with the Commission. Both documents are available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* 2072–008.

c. *Date filed:* October 1, 1999.

d. *Applicant:* Wisconsin Electric Power Company (WE).

e. *Name of Project:* Lower Paint Hydroelectric Project.

f. *Location:* The project is located on the Paint River, near Crystal Falls, in Iron County, Michigan. The project would not utilize any Federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

i. *FERC Contact:* Any questions on this notice should be addressed to Patti Leppert-Slack, E-mail address patricia.leppertslack@ferc.fed.us, or telephone (202) 219–2767.

j. *Deadline for filing motions to intervene, protests, comments, final terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* On March 25, 1996, the Director, Office of Hydropower Licensing, approved WE's use of the Alternative Licensing Process. Scoping, pursuant to the National Environmental Policy Act of 1969 as amended, for the project was conducted through scoping documents issued in July 1996 and January 1997, and in public scoping meetings on September 16 and 17, 1996. The draft license application and APEA were distributed by the applicant for comment on October 20, 1998.

The Commission staff has reviewed the license application and APEA and has determined that the application is acceptable for processing and no additional information or studies are needed to prepare the Commission's environmental assessment. Comments, as indicated above, are being requested from interested parties. The applicant will have 45 days following the end of this period to respond to those comments, or may elect to seek a waiver of this deadline.

l. *Description of Project:* The project consists of the following: (1) A 128-foot-long, 6-foot-high left earth embankment; (2) a 101-foot-long concrete gated spillway with three 27-foot-long by 15-foot-high Taintor Gates; (3) a 150-foot-long, 25-foot-high uncontrolled concrete gravity spillway; (4) a 316-foot-long, 17-foot-high right earth embankment; (5) an impoundment with a 340-acre surface area at normal full pool elevation 1,285.5 feet National Geodetic Vertical Datum; (6) a 1.4-mile-long, 89-foot-wide, 1,700 cubic feet per second capacity diversion canal; (7) a powerhouse containing a single generating unit rated at 100 kilowatts; and (8) appurtenant facilities.

The Lower Paint diversion canal diverts water from the Paint River to the reservoir of WE's Peavy Falls Project, located on the Michigamme River.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of the rules of Practice and Procedures, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application and APEA.

o. Filing and Service of Responsive Documents—The Commission is requesting comments, recommendations, terms and conditions, prescriptions, and reply comments.

The Commission directs, pursuant to 18 CFR 4.34(b) of the regulations, that all comments, recommendations, terms and conditions, and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

p. All filings must: (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' ''PRESCRIPTIONS,'' or ''REPLY COMMENTS;'' (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application and APEA directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy

Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–32045 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant Prepared Environmental Assessment Accepted for Filing; Requesting Interventions and Protests; Establishing Procedural Schedule and Final Amendment Deadline; Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions; Requesting Reply Comments

December 6, 1999.

Take notice that the following hydroelectric application has been filed with the Commission. An Applicant-Prepared Environmental Assessment (APEA) for the Upper Menominee River Basin Projects, which includes the project below, has been filed with the Commission. Both documents are available for public inspection.

a. *Type of Application:* Major New License.

b. *Project No.:* 1980–009.

c. *Date filed:* February 27, 1999.[1]

d. *Applicant:* Wisconsin Electric Power Company (WE).

e. *Name of Project:* Big Quinnesec Falls Hydroelectric Project.

f. *Location:* The project is located on the Menominee River, near Niagara in Florence and Marinette Counties, Wisconsin and Dickinson County, Michigan. The project would not utilize any Federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

i. *FERC Contact:* Any questions on this notice should be addressed to Patti Leppert-Slack, E-mail address patricia.leppertslack@ferc.fed.us, or telephone (202) 219–2767.

j. *Deadline for filing motions to intervene, protests, comments, final terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. N.E., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* On March 25, 1996, the Director, Office of Hydropower Licensing, approved WE's use of the Alternative Licensing Process. Scoping, pursuant to the National Environmental Policy Act of 1969 as amended, for the project was conducted through scoping documents issued in July 1996 and January 1997, and in public scoping meetings on September 16 and 17, 1996. The APEA was distributed by the applicant for comment on October 20, 1998.

The Commission staff has reviewed the license application and APEA and has determined that the application is acceptable for processing and no additional information or studies are needed to prepare the Commission's environmental assessment. Comments, as indicated above, are being requested from interested parties. The applicant will have 45 days following the end of this period to respond to those comments, or may elect to seek a waiver of this deadline.

l. *Description of Project:* The project consists of the following: (1) An existing dam, consisting of: (a) a concrete non-overflow section, about 157 feet long, equipped with two control gates, (b) an intake section, about 96 feet long, (c) a gated spillway section, about 229 feet long, equipped with seven 27-foot-wide by 15-foot-high Taintor gates, (d) a concrete non-overflow section, about 145 feet long, and (e) two earth dikes, with a combined length of about 200 feet; (2) an impoundment with a surface area of 272 acres and a 3,790 acre-feet storage capacity at summer pool elevation of 1,034.9 feet National Geodetic Vertical Datum (NGVD), and a surface area of 264 acres and a 3,650 acre-feet storage capacity at winter pool elevation of 1,034.4 feet NGVD; (3) a concrete forebay, about 100 feet by 245 feet; (5) two 65-foot-long, 12-foot-diameter steel penstocks; (6) a powerhouse, containing two generating units, each rated at 1,875 kilowatts (kW); (7) two 250-foot-long, 12-foot-diameter steel penstocks; (8) a powerhouse, containing two generating units, each rated at 8,000 kW; and (9) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR Sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application and APEA.

o. Filing and Service of Responsive Documents—The Commission is requesting comments, recommendations, terms and conditions, prescriptions, and reply comments.

The Commission directs, pursuant to 18 CFR section 4.34(b) of the regulations, that all comments, recommendations, terms and conditions, and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

[1] Wisconsin Electric requested that the Big Quinnesec Project be included in the Alternative Licensing Process for the Upper Menominee River Basin Projects. The Commission approved the request.

p. All filings must: (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' ''PRESCRIPTIONS,'' or ''REPLY COMMENTS;'' (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filings responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application and APEA directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–32046 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant Prepared Environmental Assessment Accepted for Filing; Requesting Interventions and Protests; Establishing Procedural Schedule and Final Amendment Deadline; Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions; Requesting Reply Comments

December 6, 1999.

Take notice that the following hydroelectric application has been filed with the Commission. An Applicant-Prepared Environmental Assessment (APEA) for the Upper Menominee River Basin Projects, which includes the project below, has been filed with the Commission. Both documents are available for public inspection.

a. *Type of Application:* Major New License.

b. *Project No.:* 2073–008.

c. *Date filed:* October 1, 1999.

d. *Applicant:* Wisconsin Electric Power Company (WE).

e. *Name of Project:* Michigamme Falls Hydroelectric Project.

f. *Location:* The project is located on the Michigamme River, near Crystal Falls, Iron Mountain, and Kingsford, in Iron County, Michigan. The project would not utilize any Federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r)

h. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

i. *FERC Contact:* Any questions on this notice should be addressed to Patti Leppert-Slack, E-mail address patricia.leppertslack@ferc.fed.us, or telephone (202) 219–2767.

j. *Deadline for filing motions to intervene, protests, comments, final terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. N.E., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* On March 25, 1996, the Director, Office of Hydropower Licensing approved WE's use of the Alternative Licensing Process. Scoping, pursuant to the National Environmental Policy Act of 1969 as amended, for the project was conducted through scoping documents issued in July 1996 and January 1997, and in public scoping meetings on September 16 and 17, 1996. The draft license application and APEA were distributed by the applicant for comment on October 20, 1998.

Commission staff has reviewed the license application and APEA and has determined that the application is acceptable for processing and no additional information or studies are needed to prepare the Commission's environmental assessment (EA). Comments, as indicated above, are being requested from interested parties. The applicant will have 45 days following the end of this period to respond to those comments, or may elect to seek a waiver of this deadline.

l. *Description of Project:* The project consists of the following: (1) A 345-foot-long, 51-foot-high left earthen dike; (2) a 119-foot-long, 53-foot-high left concrete gravity dam; (3) a 91-foot-long intake section; (4) a 70-foot-long concrete gravity section; (5) a 55-foot-high, 101-foot-long concrete spillway; (6) a 703-foot-long, 32-foot-high right earthen dike; (7) an impoundment with a 460-acre surface area and a 7,350 acre-feet storage capacity at normal pool elevation 1,189.7 feet National Geodetic Vertical Datum; (8) a 91-foot-long, 33-foot-wide powerhouse containing two generating units rated at 4,800 kilowatts; (9) a substation; and (10) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR Sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application and APEA.

o. Filing and Service of Responsive Documents—The Commission is requesting comments, recommendations, terms and conditions, prescriptions, and reply comments.

The Commission directs, pursuant to 18 CFR section 4.34(b) of the regulations, that all comments, recommendations, terms and conditions, and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this

notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

p. All filings must: (1) Bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' ''PRESCRIPTIONS,'' or ''REPLY COMMENTS''; (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application and APEA directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–32047 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

Notice of Application and applicant Prepared Environmental Assessment Accepted for Filing; Requesting Interventions and Protests; Establishing Procedural Schedule and Final Amendment Deadline; Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions; Requesting Reply Comments

December 6, 1999.

Take notice that the following hydroelectric application has been filed with the Commission. An Applicant-Prepared Environment Assessment (APEA) for the Upper Menominee River Basin Projects, which includes the project below, has been filed with the Commission. Both documents are available for public inspection.

a. *Type of Application:* Major New License.

b. *Project No.:* 1759–036.[1]

c. *Date filed:* October 1, 1999.

d. *Applicant:* Wisconsin Electric Power Company (WE).

e. *Name of Project:* Way Dam Hydroelectric Project.

f. *Location:* The project is located on the Michigamme River, near Crystal Falls, in Iron and Dickinson Counties, Michigan. The project would not utilize Federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

i. *FERC Contact:* Any questions on this notice should be addressed to Patti Leppert-Slack, E-mail address particia.lepperslack@ferc.fed.us, or telephone (202) 219–2767.

j. *Deadline for filing motions to intervene, protests, comments, final terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* On March 25, 1996, the Director, Office of Hydropower Licensing, approved WE's use of the Alternative Licensing Process. Scoping, pursuant to the National Environmental Policy Act of 1969, as amended, for the project was conducted through scoping documents issued in July 1996 and January 1997, and in public scoping meetings on September 16 and 17, 1996. The draft license application and APEA were distributed by the applicant for comment on October 20, 1998.

The Commission staff has reviewed the license application and APEA and has determined that the application is acceptable for processing and no additional information or studies are needed to prepare the Commission's environmental assessment. Comments, as indicated above, are being requested from interested parties. The applicant will have 45 days following the end of this period to respond to those comments, or may elect to seek a waiver of this deadline.

l. *Description of Project:* The project consists of the following: (1) A 256-foot-long, 50-foot-high dam; (2) six earth embankments; (3) a powerhouse about 40 feet long and 47 feet wide containing a single generating unit rated at 1,800 kilowatts; (4) Michigamme Reservoir with a 6,400-acre surface area and a 100,600 acre-feet storage capacity at normal full summer pool elevation 1,374.3 feet National Geodetic Vertical Datum; (5) an 87.5-foot-long, 26-foot-high concrete spillway; (6) a step-up transformer; and (7) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or a

[1] Project No. 1759, currently consists of three developments, Way Dam, Twin Falls, and Peavy Falls Hydroelectric Projects. Wisconsin Electric requests that the Commission issue separate licenses for these three developments. The Commission has designated these three developments as P–1759–036 (Way Dam), P–11830–000 (Peavy Falls), and P–11831–000 (Twin Falls).

motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR Sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application and APEA.

0. Filing and Service of Responsive Documents—The Commission is requesting comments, recommendations, terms and conditions, prescriptions, and reply comments.

The Commission directs, pursuant to 18 CFR section 4.34(b) of the regulations, that all comments, recommendations, terms and conditions, and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

p. All filings must: (1) Bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE'', ''COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', ''PRESCRIPTIONS'', or ''REPLY COMMENTS''; (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application and APEA directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulation Commission, 888 First St. NE., Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulation Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this processing, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–32048 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

Notice of Application and Applicant Prepared Environmental Assessment Accepted for Filing; Requesting Interventions and Protests; Establishing Procedural Schedule and Final Amendment Deadline; Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions; Requesting Reply Comments

December 6, 1999.

Take notice that the following hydroelectric application has been filed with the Commission. An Applicant-Prepared Environment Assessment (APEA) for the Upper Menominee River Basin Projects, which includes the project below, has been filed with the Commission. Both documents are available for public inspection.

a. *Type of Application:* Major New License.

b. *Project No.:* 2074–007.

c. *Date filed:* October 1, 1999.

d. *Applicant:* Wisconsin Electric Power Company (WE).

e. *Name of Project:* Hemlock Falls Hydroelectric Project.

f. *Location:* The project is located on the Michigamme River, near Crystal Falls, in Iron County, Michigan. The project would not utilize Federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

i. *FERC Contact:* Any questions on this notice should be addressed to Patti Leppert-Slack, E-mail address particia.lepperslack@ferc.fed.us, or telephone (202) 219–2767.

j. *Deadline for filing motions to intervene, protests, comments, final terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* On March 25, 1996, the Director, Office of Hydropower Licensing, approved WE's use of the Alternative Licensing Process. Scoping, pursuant to the National Environmental Policy Act of 1969, as amended, for the project was conducted through scoping documents issued in July 1996 and January 1997, and in public scoping meetings on September 16 and 17, 1996. The draft license application and APEA were distributed by the applicant for comment on October 20, 1998.

The Commission staff has reviewed the license application and APEA and has determined that the application is acceptable for processing and no additional information or studies are needed to prepare the Commission's environmental assessment. Comments, as indicated above, are being requested from interested parties. The applicant will have 45 days following the end of this period to respond to those comments, or may elect to seek a waiver of this deadline.

l. *Description of Project:* The project consists of the following: (1) A 17.5-foot-long concrete gravity left abutment; (2) a 101.5-foot-long, 40.5-foot-high gated spillway; (3) a 15-foot-long, 15-foot-high non-overflow left gravity dam; (4) a 98-foot-long, 23-foot-high non-overflow right gravity dam; (5) a 120-foot-long, 17.5-foot-high uncontrolled spillway; (6) a 17.5-foot-long right abutment; (7) an impoundment with a 75-acre surface area at normal pool elevation 1,335.5 feet National Geodetic Vertical Datum; (8) an 88-foot-long, 47-foot-side powerhouse, containing a single generating unit rated at 2,8000 kilowatts; (9) a step-up transformer; and (10) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling

(202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR Sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application and APEA.

0. Filing and Service of Responsive Documents—The Commission is requesting comments, recommendations, terms and conditions, prescriptions, and reply comments.

The Commission directs, pursuant to 18 CFR section 4.34(b) of the regulations, that all comments, recommendations, terms and conditions, and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

p. All filings must: (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE'', ''COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', ''PRESCRIPTIONS'', or ''REPLY COMMENTS''; (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application and APEA directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulation Commission, 888 First St. NE., Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulation Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this processing, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–32049 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant Prepared Environmental Assessment Accepted for Filing; Requesting Interventions and Protests; Establishing Procedural Schedule and Final Amendment Deadline; Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions; Requesting Reply Comments

December 6, 1999.

Take notice that the following hydroelectric application has been filed with the Commission. An Applicant-Prepared Environmental Assessment (APEA) for the Upper Menominee River Basin Projects, which includes the project below, has been filed with the Commission. Both documents are available for public inspection.

a. *Type of Application:* Major New License.

b. *Project No.:* 2131–020.

c. *Date filed:* October 1, 1999.

d. *Applicant:* Wisconsin Electric Power Company (WE).

e. *Name of Project:* Kingsford Hydroelectric Project.

f. *Location:* The project is located on the Menominee River, near Iron Mountain, Kingsford, and Norway, in Dickinson County, Michigan, and Florence County, Wisconsin. The project would not utilize any Federal lands or facilities.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

i. *FERC Contact:* Any questions on this notice should be addressed to Patti Leppert-Slack, E-mail address patricia.leppertslack@ferc.fed.us, or telephone (202) 219–2767.

j. *Deadline for filing motions to intervene, protests, comments, final terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all entervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status on Environmental Analysis:* On March 25, 1996, the Director, Office of Hydropower Licensing, approved WE's use of the Alternative Licensing Process. Scoping, pursuant to the National Environmental Policy Act of 1969 as amended, for the project was conducted through scoping documents issued in July 1996 and January 1997, and in public scoping meetings on September 16 and 17, 1996. The draft license application and APEA were distributed by the applicant for comment on October 20, 1998.

The Commission staff has reviewed the license application and APEA and has determined that the application is acceptable for processing and no additional information or studies are needed to prepare the Commission's environmental assessment. Comments, as indicated above, are being requested from interested parties. The applicant will have 45 days following the end of this period to respond to those comments, or may elect to seek a waiver of this deadline.

l. *Description of Project:* The project consists of the following: (1) A 317-foot-long, 26-foot-high left dike, (2) a 119-foot by 72.5-foot powerhouse, containing three generating units rated at 2,400 kilowatts; (3) three 4-foot-diameter sluice tubes and a trash sluice; (4) a 242-foot-long, 43-foot-high concrete spillway, with ten 20-foot-wide by 14-foot-high Taintor gates; (5) a 129-foot-long, 26-foot-high right dike; (6) an impoundment with a 510-acre surface area and a 6,800 acre-feet storage capacity at normal full pool elevation

1,066.9 feet National Geodetic Vertical Datum; and (7) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR Sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application and APEA.

o. Filing and Service of Responsive Documents—The Commission is requesting comments, recommendations, terms and conditions, prescriptions, and reply comments.

The Commission directs, pursuant to 18 CFR section 4.34(b) of the regulations, that all comments, recommendations, terms and conditions, and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

p. All filings must: (1) Bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONTIDTIONS,'' ''PRESCRIPTIONS,'' or ''REPLY COMMENTS''; (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application and APEA directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–32050 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application and Applicant Prepared Environmental Assessment Accepted for Filing; Requesting Interventions and Protests; Establishing Procedural Schedule and Final Amendment Deadline; Requesting Comments, Final Terms and Conditions, Recommendations and Prescriptions; Requesting Reply Comments

December 6, 1999.

Take notice that the following hydroelectric application has been filed with the Commission. An Applicant-Prepared Environmental Assessment (APEA) for the Upper Menominee River Basin Projects, which includes the project below, has been filed with the Commission. Both documents are available for public inspection.

a. *Type of Application:* Major New License.

b. *Project No.:* 11831–000. [1]

c. *Date filed*: October 1, 1999.

d. *Applicant*: Wisconsin Electric Power Company (WE).

e. *Name of Project*: Twin Falls Hydroelectric Project.

f. *Location*: The project is located on the Menominee River, near Iron Mountain, Kingsford, and Norway in Dickinson County, Michigan and Florence County, Wisconsin. The project would not utilize any Federal lands or facilities.

g. *Filed Pursuant to*: Federal Power Act 16 USC 791(a)–825(r).

h. *Applicant Contact*: Ms. Rita L. Hayen, P.E., Wisconsin Electric Power Company, 231 West Michigan Street, P.O. Box 2046, Milwaukee, WI 53201–2046.

i. *FERC Contact*: Any questions on this notice should be addressed to Patti Leppert-Slack, E-mail address patricia.leppertslack@ferc.fed.us, or telephone (202) 219–2767.

j. *Deadline for filing motions to intervene, protests, comments, final terms and conditions, recommendations, and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, the intervenor must also serve a copy of the document on that resource agency.

k. *Status of Environmental Analysis:* On March 25, 1996, the Director, Office of Hydropower Licensing, approved WE's use of the Alternative Licensing Process. Scoping, pursuant to the National Environmental Policy Act of 1969, as amended, for the project was conducted through scoping documents issued in July 1996 and January 1997, and in public scoping meetings on September 16 and 17, 1996. The draft license application and APEA were distributed by the applicant for comment on October 20, 1998.

The Commission staff has reviewed the license application and APEA and has determined that the application is acceptable for processing and no additional information or studies are needed to prepare the Commission's environmental assessment. Comments, as indicated above, are being requested from interested parties. The applicant will have 45 days following the end of this period to respond to those

[1] Project No. 1759 currently consists of three developments, Way Dam, Twin Falls, and Peavy Falls Hydroelectric Projects. Wisconsin Electric requests that the Commission issue separate licenses for these three developments. The Commission has designated these three developments as P–1759–036 (Way Dam), P–11830–000 (Peavy Falls), and P–11831–000 (Twin Falls).

comments, or may elect to seek a waiver of this deadline.

1. *Description of Project:* The project consists of the following: (1) A 350-foot-long, 20.7-foot-high left dike; (2) a 70-foot-long, 21-foot-high concrete left forebay wall; (3) 60-foot-long, 21-foot-high left intake wall with four bays leading into two 9-foot-diameter steel penstocks; (4) a 70-foot-long concrete right intake structure with six bays leading into three 9-foot-diameter steel penstocks; (5) a 123-foot by 80-foot powerhouse, containing three 1,248 kilowatts (kW) generating units and two 1,200-kW generating units for a total installed generating capacity of 6,144-kW; (6) a 117-foot-long concrete right forebay wall; (7) 50-foot-long, 32-foot-high concrete gravity structure (Michigan gravity dam); (8) a 174-foot-long, 43-foot-high concrete gravity spillway with four 29-foot-wide by 15-foot-high Taintor gates and a sluice gate; (9) a 234-foot-long, 30-foot-high concrete gravity structure (Wisconsin gravity dam); (10) two middle dikes extending approximately 500 feet to a controlled spillway; (11) 101-foot-long concrete auxiliary spillway that contains three 27-foot-wide by 15-foot-high Taintor gates; (12) a 300-foot-long right dike; (13) an impoundment with a 960-acre surface area and a 9,750 acre-feet storage capacity at normal full pool elevation, 1,112.7 feet National Geodetic Vertical Datum; and (14) appurtenant facilities.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

n. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedures, 18 CFR Sections 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application and APEA.

o. Filing and Service of Responsive Documents—The Commission is requesting comments, recommendations, terms and conditions, prescriptions, and reply comments.

The Commission directs, pursuant to 18 CFR section 4.34(b) of the regulations, that all comments, recommendations, terms and conditions, and prescriptions concerning the application and APEA be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

p. All filings must: (1) bear in all capital letters the title ''PROTEST,'' ''MOTION TO INTERVENE,'' ''COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' ''PRESCRIPTIONS,'' or ''REPLY COMMENTS;'' (2) set forth in the heading the name of the applicant and the project number of the application and APEA to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. all comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application and APEA directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. An additional copy must be sent to: Director, Division of Licensing and Compliance, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

David P. Boergers,

Secretary.

[FR Doc. 99–32051 Filed 12–9–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

Floodplain Statement of Findings for the Miracle Mile-Cheyenne No. 1 Transmission Line

AGENCY: Western Area Power Administration, DOE.

ACTION: Floodplain Statement of Findings.

SUMMARY: This Floodplain Statement of Findings for the Miracle Mile-Cheyenne No. 1 Transmission Line was prepared in accordance with the U.S. Department of Energy's Floodplain/Wetland Review Requirements (10 CFR part 1022). Western Area Power Administration (Western) proposes to redirect the flow of the Little Laramie River to prevent a transmission line structure on the Miracle Mile-Cheyenne No. 1 transmission line from being washed out. The activity is within the Little Laramie River floodplain located approximately 9 miles northwest of Laramie, Albany County, Wyoming. Western prepared a floodplain assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplain. This action is categorically excluded under the Department of Energy's (DOE) National Environmental Policy Act (NEPA) Implementing Procedures (10 CFR part 1021). Due to the need to redirect the river's flow before the onset of winter weather and maintain project effectiveness, the 15-day public review period following the publication of the Statement of Findings has been waived per 10 CFR 1022.18(c).

FOR FURTHER INFORMATION CONTACT: Mr. Rodney Jones, Environmental Specialist, Rocky Mountain Customer Service Region, Western Area Power Administration, P.O. Box 3700, Loveland, CO 80539–3003, telephone (970) 490–7371, email rjones@wapa.gov.

For further information on DOE Floodplain/Wetlands Environmental Review Requirements, contact: Ms. Carol M. Borgstrom, Director, NEPA Policy and Assistance, EH–42, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, telephone (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: This Statement of Findings for the Miracle Mile-Cheyenne No. 1 transmission line was prepared in accordance with 10 CFR part 1022. A notice of floodplain involvement was published in the **Federal Register** (FR) on October 28, 1999 (64 FR 58057). The Wyoming

Game and Fish Department (WGFD) responded to Western's Notice of Floodplain Involvement expressing concerns over increased water velocity in the immediate vicinity of the work, as well as upstream and downstream. Western is planning to undertake a transmission line structure protection measure that includes redirecting approximately 60 feet of the Little Laramie River, located northwest of Laramie, Albany County, Wyoming. Structure 82/2 of the Miracle Mile-Cheyenne No. 1 115-kilovolt (kV) transmission line is located within a small ox bow bend of the Little Laramie River. The river has eroded the stream bank to within 3 feet of the base of the structure. The structure is at risk of failure due to ongoing stream bank erosion. If the current rate of erosion continues, the structure could potentially fail during the year 2000 spring runoff, or sooner. Western needs to correct the situation immediately to avoid interruption of electrical service, maintain system reliability, and avoid potential harmful effects that could result from the failure of the electrical transmission line. Per a review of the flood hazard maps for Albany County, Western determined that redirecting the flow of the river around the transmission line structure involves the 100-year floodplain of the Little Laramie River. The transmission line consists of wood pole, H-frame structures carrying three-phase electric power. The Miracle Mile-Cheyenne No. 1 transmission line was put into service in 1960 as part of the Pick-Sloan Missouri Basin Program.

Western is proposing to cut a channel between the two arms of the ox bow, which will divert the stream flow behind and south of Structure 82/2. A back hoe will be used to cut the new channel, which will be approximately 60 feet in length. All spoil dirt will be removed and placed away from the stream. The channel will be cut from the downstream side to the upstream side to prevent any spoil material from entering the stream. At this location, the stream is approximately 8 feet wide and a few inches to a foot in depth during low flow conditions.

Western considered alternatives to its proposed action, including no action, installing new structures to span the Little Laramie River, and the installation of rip-rap to stabilize the river banks of the ox bow at structure 82/2. The installation of new structures and/or rip-rap would not have avoided impacts to the floodplain. The no action alternative would not have resolved the risk to structure 82/2.

In response to WGFD concerns, a qualified hydrologist has conducted a field review of Western's proposal and alternatives, and determined that diverting the stream is not expected to increase water velocity at the work site, or water velocity upstream or downstream of the work site. Diverting the stream into the new channel is not expected to have any measurable effect on flood storage volume or impact floodplain characteristics down stream. There will be no new structures placed in the floodplain. The proposed activity would occur during annual minimum flow conditions. The action would conform with applicable State or local floodplain protection standards. This action is categorically excluded under the DOE's NEPA Implementing Procedures (10 CFR part 1021).

Dated: November 29, 1999.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 99–32052 Filed 12–9–99; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[AZ–020–NOA; FRL–6506–8]

Adequacy Status of the Maricopa County, Arizona Submitted PM–10 Attainment Plan for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Inadequacy Determination.

SUMMARY: In this notice, EPA is notifying the public that we have found that the submitted Maricopa County (Phoenix, Arizona) serious area particulate matter (PM–10) attainment plan is inadequate for transportation conformity purposes. As a result of our finding, the Maricopa Association of Governments and the Federal Highway Administration cannot use the PM–10 motor vehicle emissions budget from the submitted plan for future conformity determinations.

DATES: This determination is effective December 27, 1999.

FOR FURTHER INFORMATION CONTACT: The finding is available at EPA's conformity website: http://www.epa.gov/oms/traq, (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity''). You may also contact Karina O'Connor, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105; (415) 744–1247 or oconnor.karina@epa.gov.

SUPPLEMENTARY INFORMATION:

Background:

This notice announces our finding that the *MAG 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County Nonattainment Area,* submitted by the Arizona on July 8, 1999, is inadequate for transportation conformity purposes. EPA Region IX made this finding in a letter to the Arizona Department of Environmental Quality and the Maricopa Association of Governments on December 1, 1999. We are also announcing this finding on our conformity website: http://www.epa.gov/oms/traq, (once there, click on the ''Conformity'' button, then look for ''Adequacy Review of SIP Submissions for Conformity'').

Transportation conformity is required by section 176(c) of the Clean Air Act. Our conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). One of these criterion is that the plan provide for attainment of the relevant ambient air quality standard by the applicable Clean Air Act attainment date. We have preliminarily determined that the Maricopa County PM–10 plan does not provide for attainment of the PM–10 standards and therefore, cannot be found adequate.

This inadequacy finding is separate from and does not affect our August 4, 1999 finding that the plan is complete under section 110(k)(1) of the Clean Air Act.

We have described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). We followed this guidance in making our inadequacy determination on the Maricopa County PM–10 plan.

Authority: 42 U.S.C. 7401–7671 q.

Date December 1, 1999.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 99–32077 Filed 12–9–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6248–8]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR www.epa.gov/oeca/ofa. Weekly receipt of Environmental Impact Statements Filed November 29, 1999 Through December 03, 1999 Pursuant to 40 CFR 1506.9.

EIS No. 990452, DRAFT EIS, NPS, UT, Zion National Park, General Management Plan, Implementation, Washington, Iron and Kane Counties, UT, Due: February 11, 2000, Contact: Michael Rees (303) 969–2198.

EIS No. 990453, FINAL EIS, AFS, AK, Indian River Timber Sales(s) Project, Implementation, Tongass National Forest, Chatham Area, Sitka and Hoonah Ranger Districts, COE Section 10 and 404 Permit, NPDES and Coast Guard Bridge Permit, Chichagof Island, AK, Due: January 10, 2000, Contact: Lina Shipley (907) 747–6671.

EIS No. 990454, DRAFT EIS, USN, FL, MS, VA, USS Winston S. Churchill (DDG 81), Conducting a Shock Trial, Offshore of Naval Stations, Mayport, FL; Norfolk, VA and/or Pascagoula, MS, Due: January 24, 2000, Contact: Ms. Lyn Carroll (703) 413–4099.

EIS No. 990455, DRAFT EIS, AFS, KY, Daniel Boone National Forest, Implementation, Salvage Harvest Due to 1998 Storm Damage Timber, McCreary and Pulaske County, KY, Due: January 24, 2000, Contact: Dan Crockett (606) 679–2018.

EIS No. 990456, FINAL EIS, NPS, WA, Vancouver National Historic Reserve Cooperative Management Plan, Preservation, Education and Public Use, Implementation, Clark County, City of Vancouver, WA, Due: January 20, 2000, Contact: Tony Sisto (360) 696–7655.

EIS No. 990457, FINAL EIS, NPS, PA, NJ, Delaware Water Gap National Recreation Area (DWGNRA) Trail Plan, General Management Plan, Implementation, Delaware River, PA and NJ, Due: January 10, 1999, Contact: J. Robert Kirby (570) 588–2418.

EIS No. 990458, FINAL EIS, BLM, WY, Continental Divide/Wamsutter II Natural Gas Project, Implementation of Natural Gas Exploration and Development, Sweetwater and Carbon Counties, WY, Due: January 20, 2000, Contact: Mr. Clare Miller (307) 328–4245.

EIS No. 990459, FINAL EIS, FHW, WI, US 151 Highway Project, from Dickeyville to Belmont, Improvements, Funding and COE Section 404 Permit, Grant and Lafayette Counties, WI, Due: January 20, 2000, Contact: Richard C. Madrzak (608) 829–7510.

Amendments Notice

EIS No. 990367, DRAFT EIS, COE, CA, San Timoteo Creek Reach 3B Flood Control Project, Flood Protection, Construction, Operation and Maintenance, San Bernardino County, CA, Due: November 29, 1999, Contact: Joy Jaiswal (213) 452–3871. Published FR 10–15–99—Review Period extended. From 11–29–99 to 12–15–99.

EIS No. 990374, DRAFT EIS, SFW, CA, Trinity River Mainstem Fishery Restoration, To Restore and Maintain the Natural Production of Anadromous Fish, Trinity and Humboldt Counties, CA, Due: December 06, 1999, Contact: Joe Polos (707) 822–7201. Published FR 10–25–99 Review Period Extended. From 12–20–99 to 01–20–2000.

EIS No. 990444, DRAFT EIS, NPS, AZ, Fort Bowie National Historic Site General Management Plan, Implementation, Cochise County, AZ, Due: January 30, 2000, Contact: Chris Marvel (303) 969–2840. Correction to Contact Person and Telephone Number.

EIS No. 990451, DRAFT SUPPLEMENT, AFS, CA, WA, OR, Northern Spotted Owl Management Plan, Updated Information for Amendment to the Survey and Manage, Protection Buffer and Other Mitigating Measures, Standards and Guidelines (to the Northwest Forest Plan), Late-Successional and Old Growth Forest Related Species Within the Range of the Northern Spotted Owl, OR, WA and CA, Due: March 02, 2000, Contact: Hugh Snook (503) 808–2197.

Revision of FR notice published on 12/03/99: CEQ Comment Date has been corrected from 01/18/2000 to 03/02/2000. The US Department of Agriculture's Forest Service and US Department of Interior's Bureau of Land Management are Joint Lead Agencies for the above project.

Dated: December 07, 1999.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 99–32093 Filed 12–9–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6248–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared November 22, 1999 Through November 26, 1999 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1999 (63 FR 17856).

DRAFT EISs

ERP No. D–DOD–J11017–00 Rating EC2, National Missile Defense (NMD) Deployment System, Selection of Possible Deployment Sites: AK, AS and ND.

Summary: EPA expressed environmental concerns about avoiding and mitigating wetland impacts, increasing protection of human health and improving the combative impacts analysis.

ERP No. D–FAA–B51018–CT Rating LO, Tweed-New Haven Airport Runway Safety Area and Taxiway Improvements, Safety Improvements to Runway 2/20 and Taxiways 'B' and 'E', Funding, COE Section 10 and 404 Permits, New Haven County,CT.

Summary: EPA had a lack of objections to the proposed project.

ERP No. D–IBR–G65070–NM Rating EC2, Elephant Butte and Caballo Reservoirs, Resource Management Plan (RMP), Implementation, Sierra and Socorro Counties, NM.

Summary: EPA expressed environmental concern regarding floodplain, water quality, cultural resource, and grazing impacts. EPA requested that these issues be clarified and that mitigation measures be included.

ERP No. D–NPS–F39038–00 Rating EC2, Lower Saint Croix National Scenic Riverway Cooperative Management Plan, Implementation, MN and WI.

Summary: EPA expressed concerns regarding potential water quality impacts and the lack of baseline data/indicators. EPA requested that these issues be clarified in the final document.

ERP No. DS–NPS–E61066–FL Rating EO2, Big Cypress National Preserve, General Management Plan,

Implementation, New Information on the Special Alternative for the Off-Road Vehicle Management Plan, Collier, Dade and MonroeCounties, FL.

Summary: EPA expressed environmental objections due to lack of information regarding ORV management plan, alternative strategies, permitting system, enforcement, impact mitigation, water quality, threatened and endangered species.

FINAL EISs

ERP No. F–COE–E39037–TN Reelfoot Lake Project, Implementation of Wetland Preservation, Waterfowl Habitat Restoration, Fishery Improvement, Lake and Obion Counties, TN and Fulton County, KY.

Summary: EPA expressed environmental concern that while the restoration measures proposed at Reelfoot Lake may result in some long-term environmental benefits, they will be of lesser magnitude than would have been fostered by the original plan.

ERP No. F–COE–K36128–CA Tule River Basin Investigation Project, Plan to Increase Flood Protection Downstream of Success Dam and Increase Storage Space in Lake Success for Irrigation Water, Tule River,Tulace and King Counties, CA.

Sumary: EPA continues to object due to the lack of a sound habitat mitigation plan. EPA recommended that the mitigation plan and additional information regarding project costs and the Highway 190 bridge be obtained before the project is approved.

ERP No. F–IBR–K39045–CA Programmatic EIS—Central Valley Project Improvement Act (CVPIA) of 1992 Implementation, Central Valley, Trinity, Contra Costa, Alameda, Santa Clara and San Benito Counties, CA.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–IBR–K39056–CA Contra Loma Reservoir Project, Future Use and Operation of Contra Costa Water District, COE Section 404 Permit, Contra Costa County, CA.

Summary: EPA's previous concerns with the lack of information on water quality problems have been resolved. While EPA now has no objection to the proposed action, EPA did request that additional information regarding filtration and disinfection under the Surface Water Treatment Rule be included in the Record of Decision.

ERP No. F–JUS–E81038–AL Center for Domestic Preparedness (CDP), Expand Training for State and Local Emergency First Responders, Located at Fort McClellan, Calhoun, Cleburne, Randolph, Clay, Talladega, St. Clair, Etowah and Cherokee Counties, AL.

Summary: EPA expressed environmental concerns due to potential air emissions and hazardous waste issues related to use of live chemical agents.

Summary: ERP No. F–UAF–K11016–NV Nellis Airforce Base, Proposal to Base or Beddown F–22 Aircraft Force Development Evaluation and Weapons School, Clark County, NV.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–USN–K11098–CA Alameda Naval Air Station and Fleet and Industrial Supply Center, Disposal and Reuse, Alameda Annex and Facility, City of Alameda and Alameda County, CA.

Summary: No formal comment letter was sent to the preparing agency.

Dated: December 7, 1999.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. 99–32094 Filed 12–9–99; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, December 14, 1999, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of directors.

Memorandum and resolution re: Revised FDIC Corporate Investment Policy

Discussion Agenda:

Memorandum re: Proposed Amendment to Statement of Policy on Applications for Deposit Insurance

Memorandum re: 2000 FDIC Budget.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: December 7, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–32144 Filed 12–8–99; 9:35 am]

BILLING CODE 6714–01–M

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Meeting

Announcing an Open Meeting of the Board

TIME AND DATE: 10:00 A.M., December 14, 1999.

PLACE: Board Room, Second Floor, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

STATUS: The entire meeting will be open to the public.

MATTERS TO BE CONSIDERED DURING PORTIONS OPEN TO THE PUBLIC:

- Proposed Rule: Restructuring of the Office of Finance
- Proposed Rule: Powers and Responsibilities of Federal Home Loan Bank Boards of Directors and Senior Management
- Interim Final Rule: Devolution of Corporate Governance Responsibilities

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 99–32153 Filed 12–8–99; 12:08 pm]

BILLING CODE 6720–01–U

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR H–79]

Utilization and Disposal

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice of bulletin.

SUMMARY: The attached bulletin announces an additional reporting requirement for firearms.

FOR FURTHER INFORMATION CONTACT: Martha Caswell, Personal Property Management Policy Division, Office of

Governmentwide Policy, General Services Administration, Washington, DC 20405; telephone (202) 501–3846; e-mail martha.caswell@gsa.gov.

GSA Bulletin FPMR H–79—Utilization and Disposal

To: Heads of Federal agencies
Subject: Reporting requirements for firearms

1. *What is the purpose of this bulletin?* This bulletin announces an additional reporting requirement for firearms.

2. *When does this bulletin expire?* This bulletin will remain in effect until specifically cancelled.

3. *What is the background?* The Federal Property Management Regulations (FPMR) were amended at 41 CFR 101–43.4801(c) to add new reporting requirements for firearms. On July 23, 1999, GSA Bulletin FPMR H–75 was issued, requiring that each firearm be reported as a single item per report to include serial number, make, and model.

4. *What must I do as a result of this bulletin?* When reporting firearms to GSA, your report must identify each firearm that was acquired through abandonment or forfeiture.

5. *Whom should I contact for further information?* Martha Caswell, Director, Personal Property Management Policy Division (MTP), Office of Governmentwide Policy, General Services Administration, Washington, DC 20405; telephone, (202) 501–3846; e-mail, martha.caswell@gsa.gov.

Dated: December 2, 1999

G. Martin Wager,

Associate Administrator for Governmentwide Policy.

[FR Doc. 99–32073 Filed 12–9–99; 8:45 am]

BILLING CODE 6820–24–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Medical Child Support Working Group

AGENCY: Administration for Children and Families, DHHS.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (FACA), notice is given of the revised date for the seventh meeting of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998. The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. The **Federal Register** had previously indicated that the meeting would be December 13 and 14, 1999 (See 64 FR 58858, Nov. 1, 1999 for the DOL Notice and 64 FR 59183, Nov. 2, 1999 for the DHHS Notice).

DATES: The seventh meeting of the MCSWG will be held on Monday, January 10, 2000 and on Tuesday January 11, 2000, from 8:30 a.m. to approximately 6 p.m.

ADDRESSES: The meeting will be held at the Wyndham Bristol Hotel, 2430 Pennsylvania Avenue, NW, Washington, DC 20037, 202–955–6400. All interested parties are invited to attend this public meeting. Seating may be limited and will be available on a first-come, first-serve basis. Persons needing special assistance, such as sign language interpretation or other special accommodation, should contact the Executive Director of the Medical Child Support Working Group, Office of Child Support Enforcement, at the address listed below.

FOR FURTHER INFORMATION CONTACT: Ms. Samara Weinstein, Executive Director, Medical Child Support Working Group, Office of Child Support Enforcement, Fourth Floor East, 370 L'Enfant Promenade, SW, Washington, DC 20447 (telephone (202) 401–6953; fax (202) 401–5559; e-mail: sweinstein@cf.dhhs.gov). These are not toll-free numbers. The date, location and time for subsequent MCSWG meetings will be announced in advance in the **Federal Register.** However, it is expected this will be the last meeting.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2) (FACA), notice is given of meetings of the Medical Child Support Working Group (MCSWG). The Medical Child Support Working Group was jointly established by the Secretaries of the Department of Labor (DOL) and the Department of Health and Human Services (DHHS) under section 401(a) of the Child Support Performance and Incentive Act of 1998 (Pub. L. 105–200).

The purpose of the MCSWG is to identify the impediments to the effective enforcement of medical support by State child support enforcement agencies, and to submit to the Secretaries of DOL and DHHS a report containing recommendations for appropriate measures to address those impediments. This report will include: (1) Recommendations based on assessments of the form and content of the National Medical Support Notice, as issued under proposed regulation; (2) appropriate measures that establish the priority of withholding of child support obligations, medical support obligations, arrearages in such obligations, and in the case of a medical support obligation, the employee's portion of any health care coverage premium, by such State agencies in light of the restrictions on garnishment provided under title III of the Consumer Credit Protection Act (15 U.S.C. 1671–1677); (3) appropriate procedures for coordinating the provision, enforcement, and transition of health care coverage under the State programs for child support, Medicaid and the Child Health Insurance Program; (4) appropriate measures to improve the availability of alternate types of medical support that are aside from health care coverage offered through the noncustodial parent's health plan, and unrelated to the noncustodial parent's employer, including measures that establish a noncustodial parent's responsibility to share the cost of premiums, co-payments, deductibles, or payments for services not covered under a child's existing health coverage; (5) recommendations on whether reasonable cost should remain a consideration under section 452(f) of the Social Security Act; and (6) appropriate measures for eliminating any other impediments to the effective enforcement of medical support orders that the MCSWG deems necessary.

The membership of the MCSWG was jointly appointed by the Secretaries of DOL and DHHS, and includes representatives of: (1) DOL; (2) DHHS; (3) State Child Support Enforcement Directors; (4) State Medicaid Directors; (5) employers, including owners of small businesses and their trade and industry representatives and certified human resource and payroll profession as; (6) plan administrators and plan sponsors of group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)); (7) children potentially eligible for medical support, such as child advocacy organizations; (8) State medical child support organizations; and (9)

organizations representing State child support programs.

Agenda

The agenda for these meeting includes a discussion of the issues to be contained in the MCSWG's report to the Secretaries containing recommendations for appropriate measures to address the impediments to the effective enforcement of medical child support as listed above. At the May, 1999, meeting, the MCSWG formed four (4) sub-committees to discuss barriers, issues, options, and recommendations in the interim between full MCSWG meetings. At the next three meetings (August, 1999, October, 1999, and November, 1999), the sub-committees presented their draft recommendations to the full MCSWG for further discussion and consideration. At the January, 2000, meeting, the MCSWG will discuss the recommendations contained in their report to the Secretaries.

Public Participation

Members of the public wishing to present oral statements to the MSCWG should forward their requests to Samara Weinstein, MCSWG Executive Director, as soon as possible and at least four days before the meeting. Such request should be made by telephone, fax machine, or mail, as shown above. Time permitting, the Chairs of the MCSWG will attempt to accommodate all such requests by reserving time for presentations. The order of persons making such presentations will be assigned in the order in which the requests are received. Members of the public are encouraged to limit oral statements to 5 minutes, but extended written statements may be submitted for the record. Members of the public also may submit written statements for distribution to the MCSWG membership and inclusion in the public record without presenting oral statements. Such written statements should be sent to the MCSWG Executive Director, as shown above, by mail or fax at least 5 business days before the meeting.

Minutes of all public meetings and other documents made available to the MCSWG will be available for public inspection and copying at both the DOL and DHHS. At DHHS, these documents will be available at the MCSWG Executive Director's Office, Office of child Support Enforcement (OCSE), Administraton for Children and Families, U.S. Department of Health and Human Services, Aerospace Building, Fourth Floor-East, 370 L'Enfant Promenade, SW, Washington, DC from 8:30 a.m. to 5:30 p.m. Questions regarding the availability of documents from DHHS should be directed to Andrew J. Hagan, OCSE (telephone (202) 401–5375). This is not a toll-free number. Any written comments on the minutes should be directed to Ms. Samara Weinstein, Executive Director of the Working Group, as shown above.

Dated: December 3, 1999.

David Gray Ross,

Commissioner, Office of Child Support Enforcement.

[FR Doc. 99–32095 Filed 12–9–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0407]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Reclassification Petitions for Medical Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by January 10, 2000.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Reclassification Petitions for Medical Devices—21 CFR 860.123 (OMB Control Number 0910–0138—Extension)

FDA has the responsibility, under sections 513(e) and (f), 514(b), 515(b), and 520(l) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(e) and (f), 360d(b), 360e(b), and 360j(l)) and part 860 (21 CFR part 860) subpart C, to collect data and information contained in reclassification petitions. The reclassification provisions of the act allow any person to petition for reclassification of a medical device from any one of three classes (I, II, and III) to another class. The reclassification procedures (§ 860.123) requires the submission of sufficient, valid scientific evidence demonstrating that the proposed classification will provide a reasonable assurance of safety and effectiveness of the device for its intended use. The reclassification provisions of the act serve primarily as a vehicle for manufacturers to seek reclassification from a higher to a lower class, thereby reducing the regulatory requirements applicable to a particular device. The reclassification petitions requesting classification from class III to class II or class I, if approved, provide an alternative route to the market in lieu of premarket approval for class III devices.

In the **Federal Register** of September 17, 1999 (64 FR 50516), the agency requested comments on the proposed collections of information. No significant comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
860.123	11	1	11	500	5,500

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on current trends, FDA anticipates that 11 petitions will be submitted each year. The time required to prepare and submit a reclassification petition, including the time needed to assemble supporting data, averages 500 hours per petition. This average is based upon estimates by FDA administrative and technical staff who are familiar with the requirements for submission of a reclassification petition, have consulted and advised manufacturers on these requirements, and have reviewed the documentation submitted.

In addition, FDA is correcting a document that appeared in the **Federal Register** of Friday, September 17, 1999 (64 FR 50516). On page 50517, in Table 1 of the document, ''860.133'' is corrected to read ''860.123''.

Dated: December 3, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–32000 Filed 12–9–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2553]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Citizen Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by January 10, 2000.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Citizen Petition—21 CFR 10.30 (OMB Control Number 0910–0183)—Extension

The Administrative Procedures Act (5 U.S.C. 553(e)) provides that every agency shall accord any interested person the right to petition for issuance, amendment, or repeal of a rule. Section 10.30 provides that any person may submit to the agency a citizen petition requesting the Commissioner of Food and Drugs to issue, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action. The information is used by the agency to determine the need or desirability of the requested action and also to determine if the submitted information is sufficient to support the action. FDA determines if the submitted information is sufficient to support the action. FDA determines whether or not to grant the petition based on the information submitted. The affected respondents are individuals or households, State or local governments, nonprofit institutions and businesses or other for-profit institutions or groups.

In the **Federal Register** of June 9, 1998 (63 FR 31502), the agency requested comments on the proposed collections of information. No significant comments were received.

FDA estimates the burden of this collection of information as follows:

Dated: December 6, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–32026 Filed 12–9–99; 8:45 am]

BILLING CODE 4160–01–F

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
10.30	120	21	120	12	1,440

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–0605]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Hospital Provider of Extender Care Services (Swing-Beds) in the Medicare and Medicaid Programs, 42 CFR 447.280 and 482.66; *Form No.:* HCFA–605 (OMB# 0938–0624); *Use:* This is a facility identification and screening form. It will be completed by a hospital that is requesting approval. It initiates the process of determining the hospital's eligibility and also requests approval for its bed count category. *Frequency:* Other (one time); *Affected Public:* Business or other for profit, and Not for profit institutions; *Number of Respondents:* 50; *Total Annual Responses:* 50; *Total Annual Hours:* 12.5.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Julie Brown, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: December 1, 1999.

John Parmigiani,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–31993 Filed 12–9–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0273]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Community Mental Health Center Site Visit Assessment Tool and Supporting Regulations in 42 CFR 410.2; *Form No.:* HCFA–R–0273 (OMB# 0938–0770); *Use:* This information collection tool is essential for the Health Care Financing Administration (HCFA) to ensure that existing Community Mental Health Centers (CMHC), as well as CMHC applicants to the Medicare program, are in compliance with Medicare provider requirements, as well as all applicable Federal and State requirements. The collection tool will be completed and used by HCFA and its contractors to collect patient records and other CMHC operational information and to verify CMHC compliance as determined by the HCFA regional office. CMHCs will be required to sign the completed form, provide medical records, and other operational information to be copied by the HCFA contractor representative on-site at the CMHC during the site visit; *Frequency:* Upon initial application or re-enrollment into the Medicare program; *Affected Public:* Business or other for profit, Not for profit institutions, and State, Local, or Tribal Government; *Number of Respondents:* 850; *Total Annual Responses:* 850; *Total Annual Hours:* 3,400.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 18, 1999.

John Parmigiani,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–31989 Filed 12–9–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–0359/0360/R–0055]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Comprehensive Outpatient Rehabilitation Facility (CORF) Eligibility and Survey Forms and Information Collection Requirements in 42 CFR 485.56, 485.58, 485.60, 485.64, 485.66, 410.105; *Form No.:* HCFA–0359/0360/R–0055 (OMB # 0938–0267); *Use:* In order to participate in the Medicare program as a CORF, providers must meet federal conditions of participation. The certification form is needed to determine if providers meet at least preliminary requirements. The survey form is used to record provider compliance with the individual

conditions and report findings to HCFA; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; Business or other for-profit; *Number of Respondents:* 540; *Total Annual Responses:* 540; *Total Annual Hours:* 260,848.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 17, 1999.

John Parmigiani,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–31990 Filed 12–9–99; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1537]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare/Medicaid Hospital Survey Report Form and Supporting Regulations in 42 CFR 482.2 through 482.57; *Form No.:* HCFA–1537 (OMB# 0938–0382); *Use:* Section 1861(e) of the Social Security Act provides that hospitals participating in Medicare must meet specific requirements. These requirements are presented as Condition of Participation. State agencies must determine compliance with these conditions through the use of this report form; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 1,123; *Total Annual Responses:* 1,123; *Total Annual Hours:* 3,650.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 26, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–31991 Filed 12–9–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Indentifier: HCFA–R–0286]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Bounceback Forms for www.medicare.gov/nmpe; *Form No.:* HCFA–R–0286 (OMB#0938–0773); *Use:* The purpose of the bounceback forms is to provide feedback to HCFA. The information collected through the bounceback form will be used in conjunction with other information collected about the web sites through focus groups and interviews with web sites through focus groups and interviews with members of the Alliance Network. The combined information will guide future improvements to the web sites. There is no plan to disseminate the information, other than through public health, medical, or other professional journals, in which we may report the results; *Frequency:* Users will have the opportunity to complete the bounceback form whenever they exit the web site; *Affected Public:* Individuals or households, Business or other for profit, and Not for profit institutions; *Number of Respondents:* 49,300; *Total Annual Responses:* 49,300; *Total Annual Hours:* 5,752.

To obtain copies the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch,

Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: November 22, 1999.

John Parmigiani,

Manager, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–31992 Filed 12–9–99; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–0377/0378/R–0054]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Request for Certification, HCFA–377 and the Ambulatory Surgical Center Survey Report Form, HCFA–378 and HCFA–R–0054 Supporting Regulations Contained in 42 CFR 416.1 thru 416.150; *Form No.:* HCFA–0377/0378/R–0054 (OMB# 0938–0266); *Use:* The ambulatory surgical center (ASC) request for certification form is utilized as an application for facilities wishing to participate in the Medicare program as an ASC. This form initiates the process of obtaining a decision as to whether the conditions of coverage are met. It also promotes data retrieval from the Online Data Input Edit (ODIE system, a subsystem of the Online Survey Certification and Report (OSCAR) system by HCFA's Regional Offices (RO)). The ASC report form is an instrument used by the State survey agency to record data collection in order to determine supplier compliance with individual conditions of coverage and to report it to the Federal government. The form is primarily a coding worksheet designed to facilitate data reduction and retrieval into the ODIE/OSCAR system at the HCFA ROs. This form includes basic information on compliance (i.e., met, not met and explanatory statements) and does not require any descriptive information regarding the survey activity itself; *Frequency:* Annually and Other: One-time; *Affected Public:* Business or other for-profit; State, Local, or Tribal Government; *Number of Respondents:* 2,798; *Total Annual Responses:* 2,931; *Total Annual Hours:* 1,434.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: November 10, 1999.

John Parmigiani,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–32035 Filed 12–9–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions, and Delegations of Authority

This notice amends Part R of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60 FR 56605 as amended November 6, 1995, as last amended at 64 FR 46694–6, dated August 26, 1999).

This notice is to reflect the Order of Succession for the Health Resources and Services Administration (HRSA).

Section R–30 Order of Succession.

During the absence or disability of the Administrator or in the event of a vacancy in that office, the first official listed below who is available shall act as Administrator, except that during a planned period of absence, the Administrator may specify a different order of succession. The order of succession will be:

1. Deputy Administrator;
2. Associate Administrator, Office of Management and Program Support;
3. Associate Administrator, Bureau of Primary Health Care;
4. Associate Administrator, Bureau of Health Professions;
5. Associate Administrator, HIV/AIDS Bureau;
6. Associate Administrator, Maternal and Child Health Bureau; and
7. Associate Administrator, Office of Field Operations

Section R–40, Delegation of Authority.

All delegations and redelegations of authorities to officers and employees of the Health Resources and Services Administration which were in effect immediately prior to the effective date of this action will be continued in effect in them or their successors, pending further redelegation, provided they are consistent with this action.

This document is effective upon date of signature.

Dated: November 29, 1999.

Claude Earl Fox,

Administrator.

[FR Doc. 99–32003 Filed 12–9–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Privacy Act of 1974; New System of Records

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notification of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Health Resources and Services Administration (HRSA) is publishing notice of a proposal to add a new system of records. The Ricky Ray Hemophilia Relief Fund Act of 1998 (''the Act'')

established the Ricky Ray Hemophilia Relief Program which is designed to compensate certain individuals with blood-clotting disorders, such as hemophilia, who were infected with HIV through the use of plasma derivatives administered between July 1, 1982 and December 31, 1987. The Act will also compensate certain individuals who acquired HIV through contact with the foregoing persons. This system of records is required to comply with the implementation directives of Public Law 105–369, the Ricky Ray Hemophilia Relief Fund Act of 1998. The records will be used for Program planning, implementation, evaluation, monitoring, and documentation storage purposes.

DATES: HRSA invites interested parties to submit comments on the proposed New System of Records on or before January 19, 2000. HRSA has sent a Report of New System of Records to Congress and to the Office of Management and Budget (OMB) on November 24, 1999. The New System of Records will be effective 40 days from the date submitted to OMB unless HRSA receives comments which would result in a contrary determination.

ADDRESSES: Please address comments to Health Resources and Services Administration (HRSA) Privacy Act Officer, 5600 Fishers Lane, Room 14A–20, Rockville; Maryland 20857; telephone (301) 443–3780. Comments received will be available for inspection at this same address from 9 a.m. to 3 p.m., Monday through Friday. This is not a toll-free number.

FOR FURTHER INFORMATION CONTACT: Program Manager, Ricky Ray Program Office, Bureau of Health Professions, Room 8–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; telephone (301) 443–2330. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Health Resources and Services Administration (HRSA) proposes to establish a new system of records: 09–15–0061: ''Ricky Ray Hemophilia Relief Fund Act of 1998, HHS/HRSA/BHPr''. The Ricky Ray Hemophilia Relief Fund Act of 1998 (the ''Act'') established the Ricky Ray Hemophilia Program (the ''Program'') which is designed to compensate any individual who has an HIV infection where the individual:

(a) Has any form of a blood clotting disorder, such as hemophilia, and was treated with antihemophilic factor (a plasma derivative) between July 1, 1982, and December 31, 1987;

(b) Is the lawful spouse of the individual described above;

(c) Is the former spouse of the individual described in paragraph (a) who was the lawful spouse of such individual between July 1, 1982, and December 31, 1987, and who can assert with reasonable medical certainty that there was a transmission of the HIV from the individual described in paragraph (a); or

(d) Acquired the HIV infection through perinatal transmission from a parent who is an individual described in paragraphs (a), (b), or (c).

Subject to the availability of appropriations, the Program will provide payments of $100,000 to the estimated 7,200 people suffering from blood clotting disorders, such as hemophilia, or survivors of such individuals, who were infected with the HIV virus as a result of using plasma derivatives between July 1982 and December 1987. This compensation is intended to help offset the past and future expense of medical treatment for HIV. The **Federal Register** notice, published March 24, 1999 (64 FR 14251), announces procedures for filing Notices of Intent to File Petitions for payment under the law which was enacted on November 12, 1998. No funds have been appropriated either for the payment of awards to petitioners or for the administrative costs to HHS for operating this new program. Nevertheless, the Act states states that HHS shall establish procedures to implement the Act within 120 days of its enactment. This system of records is required to comply with the implementation directive. It will be used for program planning, implementation, evaluation, monitoring, and documentation storage purposes. The Notice of Intent shall include (1) the name of the petitioner, with current address and phone number, and (2) the name, address, and phone number of the petitioner's attorney of record or other representative for the petition, if any. The Notice will be sent to The Ricky Ray Program Office, HRSA/BHPr, and an acknowledgment will be returned to the petitioner reflecting a case number assignment.

HRSA will permit disclosure of the records to third parties pursuant to the following routine uses. The first routine use permits disclosure to a Congressional office to allow subject individuals to obtain assistance from their representatives in Congress, if they so desire. The second routine use allows disclosure to the Department of Justice or a court, in the event of litigation. The third routine use allows disclosure of records to contractors for the purposes of data analysis and record systems processing and refinement. The fourth routine use allows disclosure to contractors, medical personnel and others needed to review, verify and validate petitions.

The following notice is written in the present tense, rather than the future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the system becomes effective.

Dated: November 24, 1999.

Claude Earl Fox,

Administrator.

09–15–0061

SYSTEM NAME:

Ricky Ray Hemophilia Relief Fund Act of 1998, HHS/HRSA/BHPr

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Ricky Ray Program Office, Bureau of Health Professions, Health Resources and Services Administration, Room 8–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Petitioners and/or their representatives (if any) filing for compensation under the Ricky Ray Hemophilia Relief Fund Act of 1998.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of documents which may include general or Congressional correspondence, Notice of Intent to File a Petition, case number assignment, HHS responses, medical and legal documentation, payment information, and other related case processing documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority for management of the system is governed by Pub. L. 105–369, Ricky Ray Hemophilia Relief Fund Act of 1998, enacted November 12, 1998 (42 U.S.C. 300c–22) which provides for compassionate payments with regard to certain individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus (HIV) due to contaminated antihemophilic factor within specified time periods.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to a Congressional office from the record of an individual petitioner, in response to an inquiry from the Congressional office made at the request of the petitioner.

2. In the event of litigation where the defendant is:

(a) The Department, any component of the Department, or any employee of the Department in his or her official capacity;

(b) The United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or

(c) Any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, for example in defending against a claim based upon an individual's mental or physical condition and alleged to have arisen because of activities of the Public Health Service in connection with such individual, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

3. HRSA may disclose records to Department contractors and subcontractors for the purposes of conducting data analysis for program evaluations, compiling managerial and statistical reports, and record systems processing and refinement.

4. HRSA may contract with expert consultants for the purpose of obtaining advice on petitioner's eligibility for compensation.

Relevant records may be disclosed to such consultants. The consultants shall be required to maintain Privacy Act safeguards with respect to such records and return all records to HRSA.

5. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State or local, charged with the responsibility of investigating or prosecuting such violation, or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, provided that such disclosure is compatible with the purpose for which records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on computer hard drives and/or disk packs.

RETRIEVABILITY:

Retrievability will be by case number and/or name of petitioner.

SAFEGUARDS:

1. *Assign Responsibility for Security:* Assign responsibility for security to a management official knowledgeable in the nature of the information and process supported by the application and in the management, personnel, operational, and technical controls used to protect it.

2. *Perform Risk Assessment:* A risk assessment shall be conducted in conjunction with the development of and prior to the approval of the system design and shall ensure that vulnerabilities, risks, and other security concerns are identified and addressed in the system design and throughout the life cycle of the project. This shall be consistent with the HHS Automated Information Systems Security Program Handbook (in particular Chapters V and X).

3. *Develop Application Security Plan:* Plan for the adequate security of the application, taking into account the security of all systems in which the application will operate. Application security plans shall address application rules, training on use of the system, personnel security, contingency planning, technical controls, information sharing, and public access controls.

4. *Review Application Controls:* Perform an independent review or audit of the security control in the application at least every 3 years.

5. *Authorize Processing:* Ensure that a management official authorizes in writing confirming that its security plan as implemented adequately secures the application. The application must be authorized prior to operating and reauthorized at least every 3 years thereafter. Management authorization implies accepting the risk of each system used by the application.

6. *Implementation Guidelines:* DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual; the DHHS Automated Information Systems Security Program Handbook; and Appendix III to OMB Circular No. A–130; Appendix I, ''Federal Agency Responsibilities for Maintaining Records About Individuals.''

RETENTION AND DISPOSAL:

Records will be retained for 6 years after the program is closed, and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Program Manager, Ricky Ray Program Office, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–05, 5600 Fishers Lane, Rockville, MD 20857.

NOTIFICATION PROCEDURE:

Requests must be made to the System Manager.

Requests in person: An individual who appears at the site where records are stored seeking access to or disclosure of records relating to him/her shall provide his/her name, current address, and at least one piece of identification such as driver's license, passport, voter registration card, or union card. Identification with a current photograph is preferred but not required. Additional identification may be requested when there is a request for access to records which contain an apparent discrepancy between information contained in the records and that provided by the individual requesting access to the records. No verification of identity shall be required where the record is one which is required to be disclosed under the Freedom of Information Act.

Requests by mail: Requests for information and/or access to records received by mail must contain information providing the identity of the writer and a reasonable description of the record desired. Written requests must contain the name and address of the requester, his/her date of birth and his/her signature for comparison purposes.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. Individuals may also request an accounting of disclosures that may have been made of their records, if any.

CONTESTING RECORDS PROCEDURES:

Contact the System Manager at the address specified above and reasonably identify the record, specify the information being contested, and state the corrective action and the reason(s) for requesting the correction, along with supporting justification to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Petitioners and/or their representatives under the Ricky Ray Hemophilia Relief Fund Act of 1998.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 99–31696 Filed 12–9–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Mental Health; 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.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of what would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health and Special Emphasis Panel.

Date: December 8, 1999.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: L.R. Stanford, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93–242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: December 2, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32016 Filed 12–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel Methylation-dependent Transcriptional Repression (K22) SEP.

Date: December 16, 1999.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., 5th Floor, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, Phd, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (303) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: December 2, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32018 Filed 12–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 10, 1999.

Time: 9:15 a.m. to 11:15 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: December 16, 1999.

Time: 9 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 MBC–102.

Date: December 16, 1999.

Time: 1:00 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Martin Slater, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892, (301) 435–1149.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 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: December 2, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–32017 Filed 12–9–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4446–N–13]

Notice of Proposed Information Collection: Comment Request, Continuum of Care Homeless Assistance Application

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* February 8, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sheila Jones, Reports Liaison Officer, Department of Housing and Urban Development, 451 7th Street, SW, Room 7232, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Alma Thomas, 202–708–2140 x4470, for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Continuum of Care Homeless Assistance Application.

OMB Control Number, if applicable: 2506–0112.

Description of the need for the information and proposed use: Information to be used in the rating, ranking and selection of proposals submitted to HUD by State and local governments, public housing authorities, and nonprofit organizations for awarded funds under the Continuum of Care Homeless Assistance programs.

Members of affected public: Eligible applicants interested in applying for Continuum of Care Homeless Assistance funds.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 126,000.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: December 6, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 99–32068 Filed 12–9–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4445–N–29]

Notice of Proposed Information Collection: Comment Request; Comprehensive Needs Assessment (CNA)

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: February 8, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW, L'Enfant Building, Room 8202, Washington, DC 20410, telephone (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available information.

FOR FURTHER INFORMATION CONTACT: Willie Spearmon, Multifamily Housing, Office of Business Products, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, telephone (202) 708–3944 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Comprehensive Needs Assessment (CNA).

OMB Control Number, if applicable: 2502–0505.

Description of the need for the information and proposed use: The Comprehensive Needs Assessment (CNA) is a description of current and

future financial resources and needs of certain multifamily projects. Comprehensive Needs Assessments are authorized by Title IV of the Housing and Community Development Act of 1992 as amended by the Multifamily Housing Property Disposition Reform of 1994 and Section 531 of the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996.

Agency form numbers, if applicable: HUD–96001, HUD–96002.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 1,000, the frequency of responses is 1, the annual responses are 1,000, the time required to complete HUD–96001 is 1.25 hours and the time required to complete HUD–96002 is 1.25 hours, and the estimated annual hour burden is 2,500.

Status of the proposed information collection: Reinstatement with change.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: December 7, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99–32069 Filed 12–9–99; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4443–N–09]

Notice of Proposed Information Collection for Community Development Block Grant Program for Indian Tribes and Alaska Native Villages—Notice of Funding Availability

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: February 8, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control number and should be sent to:

Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW, room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Application for Community Development Block Grant Program Funding for Indian Tribes and Alaska Native Villages.

OMB Control Number: 2577–0191.

Description of the need for the information and proposed use: The Community Development Block Grant Program for Indian tribes and Alaska native villages requires eligible applicants to submit information to HUD to select the best projects for funding during the annual competitions. Additionally, the requirements are essential for HUD in monitoring grants to insure that grantees are making proper use of Federal dollars, and to show employment of force account construction.

Agency form numbers, if applicable: HUD–4121, HUD–4122, HUD–4123, HUD–4125, HUD–4126. Form HUD–4122–I which was used for the Indian HOME Program is cancelled.

Members of affected public: State or Local Government (Indian Tribes and Alaska Native Villages).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 300 respondents, annually and on occasion, 40 average hours per response, 12,000 hours for a total reporting burden.

Status of the proposed information collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: December 6, 1999.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Needs Description Comprehensive Approach

Indian Community Development
Block Grant (ICDBG)
See Instructions and Public Reporting Statement on back.

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0191
(exp. 1/31/2000)

1. Name of Applicant	2. Application/Grant Number (to be assigned by HUD upon submission)	
3. Name of Project	4. ☐ **Original** (check here if this is the first submission to HUD)	Date (mm/dd/yyyy)
	☐ **Amendment** (check here if submitted after grant award)	Date (mm/dd/yyyy)

5. **Community Development Needs Description** (See Instructions on back.)

Public reporting burden for this collection of information is estimated to average 17 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information requires that each eligible applicant submit information to enable HUD to select the best projects for funding during annual competitions for the ICDBG Program. The information will be used by HUD to determine whether applications meet minimum screening eligibility requirements and application submission requirements. Applicants provide general information about the project which is preliminary to the review of the applicant's response to the criteria for rating the application. The information is essential for HUD in monitoring grants to ensure that grantees are making proper use of Federal dollars. Responses to the collection are required by Section 105 of the Department of Housing and Urban Development Reform Act (P.L. 101-235) as amended by the Cranston-Gonzales National Affordable Housing Act of 1990. The information requested does not lend itself to confidentiality.

General Instructions: Forms HUD-4121 and HUD-4122 are obtional. Forms SF-424, HUD-4123, HUD-4125, and HUD-4126 must be included. For instructions in filling out form SF-424, refer to the form itself.

5. Community Development Needs. Briefly describe the need which this project addresses. Be specific and quantify need if possible. Since extent of need will be considered when project is rated, address specific points in the Notice of Fund Availability which consider need. If need involves serious threat to health and safety, provide evidence to substantiate threat. The type of information that is needed includes the specific problem the project will address, how long problem has existed, what other solutions have been considered, what negative effects will result if problem is not resolved in near future, how proposed project fits overall plan of village/tribe, and priority of this project over other projects for which funding is requested. Additional pages may be attached.

Project Summary

Indian Community Development Block Grant (ICDBG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0191
(exp. 1/31/2000)

See Instructions and Public Reporting Statement on back.

Note: Items 1 through 4 on this form should match those items on form HUD-4121.

1. Name of Applicant	2. Application/Grant Number (to be assigned by HUD upon submission)	
3. Name of Project	4. ☐ **Original** (check here if this is the first submission to HUD)	Date (mm/dd/yyyy)
	☐ **Amendment** (check here if submitted after grant award)	Date (mm/dd/yyyy)

5. **Description of Project.** (See Instructions on back.)

☐ Check here if additional page(s) are attached.

6. **Low/Moderate Benefit.** Low and moderate income beneficiary as defined in 24 CFR 1003.4.

Number of Persons Served by the Project	Number & Percentage of Low/Moderate Income Persons who Benefit	

5. Description of Project. The information provided in this application component should describe the scope, magnitude, and method of implementing the project proposed to meet the need(s) described. It should also clearly establish that the two sub-thresholds set forth in Section 1003.301(a)(1)(i) and (ii) are met by the project, specifically that the project costs are reasonable and that the project is appropriate for the intended use. The unit or component costs of the project should be provided as well as on what basis and by whom they were estimated. The inflation rate, other relevant cost indices and the number of months it is anticipated that it will take to go out to bid should be taken into consideration. The following type of information is suggestive of what is needed but may not be applicable to all projects. Indicate the specific project, its size (square feet, linear feet, volume, number, etc.), to what degree it solves the problem identified in the description of need(s), length of time needed for completion, location of facility in reference to population served (map should be provided) if appropriate. Indicate whether the project will aid more than one Tribe/municipal government, how project will be carried out (tribal force account, third party contract, tribal based non-profit corporation, local development corporation, etc.), what funds will be required from other sources and current status of funds. Indicate other elements which enhance the quality of the proposed project. If funds are requested for planning and/or technical assistance, a separate project summary must be completed describing the proposed use of these funds. It is in this component that data should be provided on the service area population of the project including the number and percent of these persons who are of low or moderate income status. **The income levels to be used by applicants to evaluate the income characteristics of the service area population of a proposed project will be provided by the ONAP office that serves your community.** Additional pages may be attached.

Public reporting burden for this collection of information is estimated to average 20 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information requires that each eligible applicant submit information to enable HUD to select the best projects for funding during annual competitions for the ICDBG Program. The information will be used by HUD to determine whether applications meet minimum screening eligibility requirements and application submission requirements. Applicants provide general information about the project which is preliminary to the review of the applicant's response to the criteria for rating the application. The information is essential for HUD in monitoring grants to ensure that grantees are making proper use of Federal dollars. Responses to the collection are required by Section 105 of the Department of Housing and Urban Development Reform Act (P.L. 101-235) as amended by the Cranston-Gonzales National Affordable Housing Act of 1990. The information requested does not lend itself to confidentiality.

Cost Summary

Indian Community Development Block Grant (ICDBG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0191
(exp. 1/31/2000)

See Instructions and Public Reporting Statement on back.

1. Name of Applicant (as shown in Item 5, Standard Form 424)	2. Application/Grant Number (to be assigned by HUD upon submission)

3. ☐ **Original** (check here if this is the first submission to HUD)	☐ **Revision** (check here if submitted with implementation schedule as part of pre-award requirements	☐ **Amendment** (check here if submitted after HUD approval of grant)	Date (mm/dd/yyyy)

4. **Project Name & Project Category** (see instructions on back) a	**Program Funds** (in thousands of $) **ICDBG** Amount Requested for each activity b	**Other** Other Source Amount for each activity c	**Other** Source of Other Funds for each activity d
	$	$	
5. **Administration** a. General Management and Oversight			
b. Indirect Costs: Enter indirect costs to be charged to the program pursuant to a cost allocation plan.			
c. Audit: Enter estimated cost of Program share of A-133 audits.			
Administration Total *			
6. **Planning** The Project description must address the proposed use of these funds.			
7. **Technical Assistance** Enter total amount of ICDBG funds requested for technical assistance. **			
8. **Sub Total** Enter totals of columns b. and c.	$	$	
9. **Grand Total** Enter sum of column b. plus column c.			$

* The total of items 5 and 6 cannot exceed 20% of the total ICDBG funds requested.

** No more than 10% of ICDBG funds requested may be used for technical assistance. If funds are requested under this line item, a separate project description must accompany the application to describe the technical assistance the application intends to obtain. Only technical assistance costs associated with the development of a capacity to undertake a specific funded program activity are eligible (24 CFR 1003.206).

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information requires that each eligible applicant submit information to enable HUD to select the best projects for funding during annual competitions for the ICDBG Program. The information will be used by HUD to determine whether applications meet minimum screening eligibility requirements and application submission requirements. Applicants provide general information about the project which is preliminary to the review of the applicant's response to the criteria for rating the application. The information is essential for HUD in monitoring grants to ensure that grantees are making proper use of Federal dollars. Responses to the collection are required by Section 105 of the Department of Housing and Urban Development Reform Act (P.L. 101-235) as amended by the Cranston-Gonzales National Affordable Housing Act of I990. The information requested does not lend itself to confidentiality.

Instructions for Item 4.
Project Name and Project Type

Participants enter the project name and the name of one of the following three categories of activities:

- Housing
- Community Facilities
- Economic Development

Also enter the component name if applicable. Use a separate Cost Summary sheet (form HUD-4123) for each project included in the application.
Examples of categories and/or components including examples of eligible activities are listed below.

Housing

Rehabilitation Component
- Rehabilitation
- Demolition

Land to Support New Housing Component

New Housing Construction Component

Community Facilitites

Infrastructure Component
- Water
- Sewer
- Roads and Streets
- Storm Sewers

Buildings Component
- Health Clinic
- Daycare Center
- Community Center
- Multi-purpose Center

Economic Development
- Commercial (wholesale, retail)
- Industrial
- Motel/Hotel
- Restaurant
- Agricultural Development

Implementation Schedule

Indian Community Development Block Grant (ICDBG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0191
(exp. 1/31/2000)

See Instructions and Public Reporting Statement on back.
Submit a separate implementation schedule for each project category.

1. Name of Applicant (as shown in Item 5, Standard Form 424)	2. Application/Grant Number (to be assigned by HUD)	3. ☐ Original (First submission to HUD) ☐ Pre-Award Submission ☐ Amendment (submitted after grant approval)	Date (mm/dd/yyyy)

4. Name of Project (as shown on form HUD-4123, item 4)	5. Effective Date (mm/dd/yyyy)	Expected Completion Date (mm/dd/yyyy)	Expected Closeout Date (mm/dd/yyyy)

6. Environmental Review Status

☐ **Exempt** (As described in 24 CFR 58.34)
☐ **Under Review** (Review underway; findings not yet made)
☐ **Finding of No Significant Impact** (Finding made that request for release of funds for project is not an action which may significantly affect the environment.)
☐ **EIS Required** (Finding that project may significantly affect environment or EIS automatically required by 24 CFR 58.37)
☐ **Not Started** (Review not yet begun)
☐ **Certification** (Environmental review completed; certification and request for release of funds being prepared for submission.)
☐ **Categorically Excluded** (as described in 24 CFR 58.35)

7. Tribal Fiscal Year (mm/dd/yyyy)

8. Task List (List tasks such as environmental assessment, acquisition, etc.)	9. Schedule. Use Calendar Year (CY) quarters. Fill-in the CY below. See detailed instructions on back.								
	CY ____					CY ____			Date (mm/dd/yyyy)
	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	5th Qtr.	6th Qtr.	7th Qtr.	8th Qtr.	(If exceeds 8th Quarter)
10. **Planned Drawdowns by Quarter** (Enter amounts non-cumulatively)	$	$	$	$	$	$	$	$	$Total
11. **Cumulative Drawdown** (If more than one page, enter total on last page only)	$	$	$	$	$	$	$	$	$Total

Previous editions are obsolete

form **HUD-4125** (12/97)

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0191), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This collection of information requires that each eligible applicant submit information to enable HUD to select the best projects for funding during annual competitions for the ICDBG Program. The information will be used by HUD to determine whether applications meet minimum screening eligibility requirements and application submission requirements. Applicants provide general information about the project which is preliminary to the review of the applicant's response to the criteria for rating the application. The information is essential for HUD in monitoring grants to ensure that grantees are making proper use of Federal dollars. Responses to the collection are required by Section 105 of the Department of Housing and Urban Development Reform Act (P.L. 101-235) as amended by the Cranston-Gonzales National Affordable Housing Act of l990. The information requested does not lend itself to confidentiality.

Instructions for Item 9 Schedule: Use Calendar Year (CY) quarters. Fill-in the CY below. If the project begins in May, for example, enter under "1st Qtr.", A(April), M(May), J(June). Indicate time period required to complete each activity, e.g., acquisition, by entering "X" under the months it will begin and end. Draw a horizontal line from the first to the second "X". If the completion date will extend beyond the 8th quarter, enter date in the far right column and attach an explanation.

Certifications

Indian Community Development Block Grant (ICDBG)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0191
(exp. 1/31/2000)

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The grantee hereby certifies and assures that it will comply with the regulations, guidelines, and requirements with respect to the acceptance and use of Federal funds for this Federally-assisted program. Also, the grantee gives assurances and certifies with respect to the grant that:

A. It possesses the legal authority to apply for the grant and execute the proposed program.

B. The governing body has duly authorized the filing of the application, including all understandings and assurances contained in the application and has directed and authorized the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

C. It will comply with the HUD general administration requirements in 24 CFR Part 85.

D. It will comply with the requirements of Title II of Public Law 90-284 (25 USC 1301) (the Indian Civil Rights Act).

E. It will comply with the Indian preference provisions required in 24 CFR 1003.510.

F. It will establish written safeguards to prevent employees from using positions funded under the ICDBG programs for a purpose that is, or gives the appearance of being, motivated by private gain for themselves, their immediate family or business associates. Nothing in this certification should be construed as to limit employees from benefiting from program activities for which they would otherwise be eligible.

G. It will give HUD and the Comptroller General access and right to examine all books, records, papers, or documents related to the grant for a period of not less than three years after program completion or until resolution of any final audit findings.

H. Neither the applicant nor its principals are presently excluded from participation in any HUD programs, as required by 24 CFR part 24.

I. It will comply with the acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, implementing regulations at 49 CFR part 24 and the requirements of 24 CFR 1003.602.

J. The chief executive officer or other official of the applicant approved by HUD:

1. Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of the Act apply to the applicant's proposed program pursuant to 24 CFR 1003.605.

2. Is authorized and consents on behalf of the applicant and him/her self to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official.

Note: Applicants for whom HUD has approved a claim of incapacity to accept the responsibilities of the Federal government for purposes of complying with the environmental review requirements of 24 CFR part 58 pursuant to 24 CFR 1003.605 need not include the provision of paragraph J in their assurance.

K. It will comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968 and the regulations in 24 CFR part 135 (Economic Opportunities for Low and Very Low Income Persons) to the maximum extent consistent with, but not in derogation of, compliance with Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 USC. 450e(b)).

L. It will comply with the requirements of the Fire Authorization Administration Act of 1992 (Pub.L. 102-522).

M. It will provide the drug-free workplace required by 24 CFR part 24, subpart F.

N. It will comply with 24 CFR, part 4, subpart A, showing full disclosure of all benefits of the project as collected by Form HUD-2880, Applicant/Recipient Disclosure Report.

O. Prior to submission of its application to HUD, the grantee has met the citizen participation requirements which includes following traditional means of member involvement, as required in 24 CFR 1003.604.

P. It will administer and enforce the labor standard requirements prescribed in 24 CFR 1003.603.

Q. The Program has been developed so that not less than 70 percent of the funds received under this grant will be used for activities that benefit low- and moderate-income persons.

Note: Applicants receiving Imminent Threat Grants need not include the provision of this paragraph in their assurance

Name (type or print)	Title
Signature	Date (mm/dd/yyyy)

Previous editions are obsolete

form **HUD-4126** (12/98)

[FR Doc. 99–32070 Filed 12–9–99; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4432–N–49]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AIR FORCE: Ms. Barbara Jenkins, Air Force Real Estate Agency, (Area–MI), Bolling Air Force Base, 112 Luke Avenue, Suite 104, Building 5683, Washington, DC 20332–8020; (202) 767–4184; NAVY: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE, Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: December 2, 1999.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

Title V, Federal Surplus Property Program—Federal Register Report for 12/10/99

Suitable/Available Properties

Buildings (by State)

Hawaii

Bldg. 5175
Naval Public Works
Iroquois Ave.
Ewa Beach Co: Honolulu HI 96706–
Landholding Agency: Navy
Property Number: 77199940033
Status: Excess
Comment: 1328 sq. ft. possible asbestos/lead paint, most recent use—residence off-site use only

Bldg. 5179
Naval Public Works
Iroquois Ave.
Ewa Beach Co: Honolulu HI 96706–
Landholding Agency: Navy
Property Number: 77199940034
Status: Excess
Comment: 1328 sq. ft. possible asbestos/lead paint, most recent use—residence off-site use only

Bldg. 5183
Naval Public Works
Iroquois Ave.
Ewa Beach Co: Honolulu HI 96706–
Landholding Agency: Navy
Property Number: 77199940035
Status: Excess
Comment: 1328 sq. ft. possible asbestos/lead paint, most recent use—residence off-site use only

Bldg. 5187
Naval Public Works
Iroquois Ave.
Ewa Beach Co: Honolulu HI 96706–
Landholding Agency: Navy
Property Number: 77199940036
Status: Excess
Comment: 1328 sq. ft. possible asbestos/lead paint, most recent use—residence off-site use only

Bldg. 5191
Naval Public Works
Iroquois Ave.
Ewa Beach Co: Honolulu HI 96705–
Landholding Agency: Navy
Property Number: 77199940037
Status: Excess
Comment: 1328 sq. ft. possible asbestos/lead paint, most recent use—residence off-site use only

Bldg. 5193
Naval Public Works
Iroquois Ave.
Ewa Beach Co: Honolulu HI 96706–
Landholding Agency: Navy
Property Number: 77199940038
Status: Excess

Comment: 1328 sq. ft. possible asbestos/lead paint, most recent use—residence off-site use only

Maine

Bldg. 6
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940039
Status: Excess
Comment: 1973 sq. ft. presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 9
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940040
Status: Excess
Comment: 8888 sq. ft. presence of asbestos/lead paint, most recent use—housing office, off-site use only

Bldg. 28
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940041
Status: Excess
Comment: 784 sq. ft. presence of asbestos/lead paint, most recent use—liquid oxygen bldg., off-site use only

Bldg. 48
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940042
Status: Excess
Comment: 3260 sq. ft., presence of asbestos/lead paint, most recent use—carpenter shop, off-site use only.

Bldg. 51
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940043
Status: Excess
Comment: 1870 sq. ft., presence of asbestos/lead paint, most recent use—paint shop, off-site use only.

Bldg. 73
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940044
Status: Excess
Comment: 64 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 74
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940045
Status: Excess
Comment: 3072 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 75
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940046
Status: Excess
Comment: 332 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 88
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940047
Status: Excess
Comment: 1462 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 94
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940048
Status: Excess
Comment: 64 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only.

Bldg. 209
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940049
Status: Excess
Comment: 2283 sq. ft., presence of asbestos/lead paint, most recent use—union bldg., off-site use only.

Bldg. 233
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940050
Status: Excess
Comment: 24,048 sq. ft., presence of asbestos/lead paint, most recent use—heating plant, off-site use only.

Bldg. 1157
NAS Brunswick
Brunswick Co: Cumberland ME 04011–
Landholding Agency: Navy
Property Number: 77199940051
Status: Excess
Comment: 1474 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

New Mexico

12 Bldgs.
Kirtland AFB
#862–867, 869, 870, 873–876
Kirtland AFB Co: Bernalillo NM 87117–5000
Landholding Agency: Air Force
Property Number: 18199940006
Status: Unutilized
Comment: 678 sq. ft., presence of lead, most recent use—residential, off-site use only

Bldgs. 871, 872
Kirtland AFB
Kirtland AFB Co: Bernalillo NM 87117–5000
Landholding Agency: Air Force
Property Number: 18199940007
Status: Unutilized
Comment: 1363 sq. ft., presence of lead, most recent use—residential, off-site use only

Unsuitable Properties

Buildings (by State)

Florida

Facility 90330
Cape Canaveral Air Station
Cape Canaveral Co: Brevard, FL 32907–
Landholding Agency: Air Force
Property Number: 18199940008
Status: Unutilized
Reason: Secured Area

Hawaii

Bldg. 330
NCTAMS PAC
Wahiawa Co: HI 96786–
Landholding Agency: Navy
Property Number: 77199940061
Status: Excess
Reason: Extensive deterioration

Bldg. 348
NCTAMS PAC
Wahiawa Co: HI 96786–
Landholding Agency: Navy
Property Number: 77199940062
Status: Excess
Reason: Extensive deterioration

Bldg. 349
NCTAMS PAC
Wahiawa Co: HI 96786–
Landholding Agency: Navy
Property Number: 77199940063
Status: Excess
Reason: Extensive deterioration

Massachusetts

Bldg. 110
Otis Air National Guard
Otis Co: MA 02542–5028
Landholding Agency: Air Force
Property Number: 18199940009
Status: Unutilized
Reason: Secured Area

Pennsylvania

Facility 22
Naval Support Station
Philadelphia Co: PA 19111–5098
Landholding Agency: Navy
Property Number: 77199940060
Status: Excess
Reason: Extensive deterioration

Texas

Bldg. 101
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940052
Status: Excess
Reason: Extensive deterioration

Bldg. 198
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940053
Status: Excess
Reason: Extensive deterioration

Bldg. 1104
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940054
Status: Excess
Reason: Extensive deterioration

Bldg. 1198
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940055

Status: Excess
Reason: Extensive deterioration

Bldg. 1823
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940056
Status: Excess
Reason: Extensive deterioration

Bldg. H–9
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940057
Status: Excess
Reason: Extensive deterioration

Bldg. H–45
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940058
Status: Excess
Reason: Extensive deterioration

Bldg. H–54
Naval Air Station
Corpus Christi Co: Nueces TX 78419–5021
Landholding Agency: Navy
Property Number: 77199940059
Status: Excess
Reason: Extensive deterioration

[FR Doc. 99–31635 Filed 12–9–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–010366.

Applicant: Larry Johnson, Boerne, TX

The applicant requests a permit to export one male and two female captive-bred ring-tailed lemurs (*Lemur catta*) to Exoticos la Puerta, Jalisco, Mexico, for the purpose of propagation for the enhancement of the survival of the species.

PRT–020037.

Applicant: North Carolina Zoological Park, Asheboro, NC

The applicant requests a permit to import blood and fecal samples collected from wild specimens of wild dogs (*Lycaon pictus*) originating from populations in and around Faro, Benoue, and Boula Ndjida National Parks in Cameroon for scientific purposes.

PRT–20256.

Applicant: Oakhill Center for Rare and Endangered Species, Luther, OK

The applicant requests a permit to import two male cheetahs (*Acinonyx jubatus*) from Cango Wildlife Ranch, Oudshorn, Republic of South Africa. These specimens were originally removed from the wild as nuisance animals in Namibia and are now being imported for the purpose of captive propagation for the enhancement of the survival of the species.

PRT–20257.

Applicant: Oakhill Center for Rare and Endangered Species, Luther, OK

The applicant requests a permit to import one captive-bred female cheetah (*Acinonyx jubatus*) from Wassenaar Wildlife Breeding Centre, Wassenaar, Holland, for the purpose of propagation for the enhancement of the survival of the species.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–019950.

Applicant: Donald E. Barnett, Bisbee, AZ

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

PRT–020091.

Applicant: Richard Lee Dorigatti, Logan, Utah

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with the application are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the above address within 30 days of the date of publication of this notice.

Dated: December 6, 1999.

Kristen Nelson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–32145 Filed 12–9–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On September 22, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 183, Page 51333, that an application had been filed with the Fish and Wildlife Service by Donald E. Lenig for a permit (PRT–017421) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada, prior to April 30, 1994, for personal use.

Notice is hereby given that on November 11, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 430, Arlington, Virginia 22203, (703) 358–2104 or Fax (703) 358–2281.

Dated: December 6, 1999.

Kristen Nelson,

Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–32028 Filed 12–9–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Geological Survey

Technology Transfer Act of 1986

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of proposed Cooperative Research and Development Agreement (CRADA) negotiations.

SUMMARY: The United States Geological Survey (USGS) is planning to enter into a Cooperative Research and Development Agreement (CRADA) with Wildflower Productions, San Francisco, California 94110. The purpose of CRADA is to develop and deploy Map-On-Demand kiosks for production of USGS topographic maps in an on-demand environment. Any other organization interested in pursuing the possibility of a CRADA for similar kinds of activities should contact the USGS.

ADDRESSES: Inquiries may be addressed to the Acting Senior Program Advisor, Systems Development and integration, U.S. Geological Survey, National Mapping Division, 500 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 20192; Telephone (703) 648–5084, facsimile (703) 648–4706; Internet ''blowell@usgs.gov''.

FOR FURTHER INFORMATION CONTACT: Brent H. Lowell, address above.

SUPPLEMENTARY INFORMATION: This notice is to meet the USGS requirement stipulated in the Survey Manual.

Dated: December 1, 1999.

Richard E. Witmer,

Chief, National Mapping Division.

[FR Doc 99–31994 Filed 12–8–99; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF INTERIOR

Bureau of Land Management

[ID–075–1220–PA]

Notice of Closure of Public Lands to Camping

SUMMARY: Notice is hereby given that the following described lands are temporarily closed to camping for the protection of public health and safety under the provisions of 43 CFR 8364.1. The closure will remain in effect until rescinded or modified by the Pocatello Field Manager. The legal description of the closure area is:

Boise Meridian, Idaho

T. 13 S., R. 40 E., Idaho Section 24: NW¼.

EFFECTIVE DATE: This order is effective January 1, 2000.

SUPPLEMENTARY INFORMATION: The Public Lands involved (approximately 40 acres) are immediately adjacent to the Maple Grove Campground, Demonstration Fee Site. Unregulated and extended overnight camping in this area results in health and safety problems, and is not consistent with the orderly use and management of the Maple Grove Fee Site. This camping restriction will reduce overcrowding at the Fee Site and serve to protect persons, property, and public land resources.

FOR FURTHER INFORMATION CONTACT: Jeff S. Steele, Field Manager, Pocatello Field Office, 1111 N. 8th Ave., Pocatello, ID 83201, 208–478–6340.

Dated: November 29, 1999.

Jeff S. Steele,

Field Manager.

[FR Doc. 99–32033 Filed 12–9–99; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–056–1020–DA; GP0–0040]

Notice of Consent Judgment

Notice is hereby given that a consent judgment in *Central Oregon Forest Issues Committee et. al.* v. *James G. Kenna, Deschutes Area Manager, Bureau of Land Management et al.,* Civil Action No. 98–29–ST (D. Or.), was lodged with the United States District Court for the District of Oregon on November 23, 1999.

AGENCY: Bureau of Land Management, Prineville District Office.

ACTION: Notice of Consent Judgment.

SUMMARY: The proposed consent judgment would govern use of off-highway vehicles (OHVs) on lands administered by the Bureau of Land Management (BLM) in and around the Millican Valley Off-Highway Vehicle Area (''OHV Area''), located in Central Oregon, until the BLM prepares a new environmental impact statement and issues a new decision regarding management of the OHV Area. On February 26, 1999, the District Court of Oregon held that BLM must prepare an environmental impact statement under the National Environmental Policy Act, 42 U.S.C. 4321–4370d, to analyze management alternatives and environmental impacts associated with use of the OVH Area.

The proposed consent judgment would govern OHV use of the Millican Valley OHV area as well as the Millican Plateau, Badlands Wilderness Study area, West Butte area, and Horse Ridge/Skeleton Fire Area. It would: (1) Limit OHV use in the Millican Plateau Area and the West Butte Area to existing routes and trails; (2) Expand the area covered by the existing winter closure to protect additional habitat within the North Side of the OHV area; (3) Continue existing restrictions on OHV use in the Horse Ridge/Skeleton fire Area. [GP8–0194]; (4) Adopt specified snow depths at which emergency winter OHV closures will be implemented to protect wildlife; (5) Include measures to control noxious weeds; (6) Require monitoring of OHV use during specific routes to OHVs in the Badlands Wilderness Study Area seasonally or permanently; (9) Provide for implementation of a designated trail system and (10) Authorize continued competitive and casual OHV use consistent with the judgment and existing 1997 Millican Valley OHV Plan.

Any person who may be adversely affected by any provision of this judgment may file written comments within thirty (30) days from the date of publication of this notice. Comments should be addressed to: Shaaron Netherton, Field Manager, Deschutes Resource Area, Bureau of Land Management, Prineville District Office, P.O. Box 550, Prineville, Oregon 97754. Comments should refer to *Central Oregon Forest Issue Committee* v. *Kenna,* Civil No. 98–29–St (D. Or.). The BLM will forward these comments to the Court for consideration. If the Court deems a hearing to be necessary on any of the comment letters, one may be scheduled. The provisions of the proposed consent judgment take effect December 1, 1999, but will be subject to the approval of the Court after the 30-day comment period. The proposed consent judgment may be examined at the Bureau of Land Management, Prineville District Office, 3050 Northeast Third Street, Prineville, Oregon. Requests for a copy of the consent judgment may also be directed to this address.

FOR FURTHER INFORMATION CONTACT: Shaaron Netherton, Prineville District, Bureau of Land Management, 3050 NE 3rd Street, Prineville, Oregon 97754, or call (541) 416–6700.

Dated: November 29, 1994.

James L. Hancock,

District Manager.

[FR Doc. 99–31996 Filed 12–9–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1310–01; NMNM 96249]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease NMNM 96249 for lands in Lea County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing

from March 1, 1999, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice.

The Lessee has met all the requirements for reinstatement of the lease as set out in Sections 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective March 1, 1999, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Margo C. Sena, Bureau of Land Management, New Mexico State Office, (505) 438–7457.

Dated: November 30, 1999.

Margo C. Sena,

Land Law Examiner.

[FR Doc. 99–32032 Filed 12–9–99; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–070–00–5440–J072]

Price Field Office Proposed Plan Amendment/Green River Airport Conveyance

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability and Notice of Realty Action.

SUMMARY: The Utah Bureau of Land Management, Price Field Office, has completed an Environmental Assessment (EA)/Finding of No Significant Impact (FONSI) for a Proposed Plan Amendment to the Price River Management Framework Plan (MFP) (1983). The purpose of the amendment is to identify certain lands, currently under lease to the City of Green River for airport purposes, as suitable for disposal through conveyance under authority of the Airport and Airway Improvement Act of September 3, 1982. Public land proposed for conveyance is located at Salt Lake Meridian T. 21 S, R. 15 E., sec. 23, SE¼; sec. 24, SW¼SW¼SW¼; sec. 25, NW¼,N½SW¼, SW¼NW¼SE¼; sec. 26, E½NE¼.

The conveyance will not occur until at least 45 days after the date of this notice and is contingent upon the signing of a decision record approving the proposed amendment.

DATES: The proposed plan amendment may be protested. The protest period will commence with the date of publication of this notice. Protests must be submitted on or before January 10, 2000.

ADDRESSES: Protests must be addressed to the Director (WO–210), Bureau of Land Management, Attn: Brenda Williams, Resource Planning Team, 1849 C Street, NW., Washington, DC 20240, within 30 days after the date of publication of this notice for the proposed planning amendment.

FOR FURTHER INFORMATION CONTACT: Joan Hubert, Bureau of Land Management, Price Field Office, 125 South 600 West, Price, Utah, telephone (435) 636–3630. Copies of the EA/FONSI/Proposed Plan Amendment are available for review at the Price Field Office.

SUPPLEMENTARY INFORMATION: The lands described have been segregated from all forms of appropriation under the public land laws, including the mining laws, for a period of five (5) years or pending disposition, whichever occurs first. Only the surface estate will be disposed. The patent, when issued, will contain certain reservations to the United States and will be subject to existing rights-of-way. Detailed information concerning these reservations as well as specific conditions of the conveyance are available for review at the Price Field Office at the address listed above. Any person who participated in the planning process and has an interest which is or may be adversely affected by the Proposed Plan Amendment may protest to the Director of the Bureau of Land Management. The protest must be in writing and filed within 30 days of the date of publication of this Notice of Availability in the **Federal Register**. The protest must be specific and contain the following information:

—The name, mailing address, telephone number and interest of the person filing the protest;

—A statement of the issue(s) being protested;

—A statement of the part(s) of the proposed amendment being protested;

—A copy of all documents addressing the issue(s) that were submitted by the protestor during the planning process; and

—A concise statement explaining why the BLM State Director's proposed decision is believed to be in error.

In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Linda S. Colville,

Acting Utah State Director.

[FR Doc. 99–32022 Filed 12–9–99; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Montana; MT–924–00–1430–HN–003E]

Notice of Intent

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Intent to Amend the Judith-Valley-Phillips and the West HiLine Resource Management Plans; Blaine and Fergus Counties, Montana.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) will amend the Judith-Valley-Phillips Resource Management Plan (RMP) and the West HiLine RMP with respect to management of public lands in Blaine and Fergus Counties. The BLM proposes exchanging 6595.68 acres of Federal surface estate in Blaine and Fergus Counties for State trust land within the Crow Indian Reservation in Big Horn and Yellowstone Counties as a part of Phase 3 of the Crow Boundary Settlement Act Land Exchange. The Federal land is legally described as:

	Acres
Fergus County	
T.20N., R.19E., PMM:	
Sec. 8: W½W½	160
Sec. 9: S½SW¼, SE¼	240
Sec. 15: N½	320
T.21N, R.19E., PMM:	
Sec. 27: S½SW¼	80
Sec. 29: S½SW¼, SE¼	240
Sec. 30: SE¼	160
Sec. 31: N½NE¼	80
Sec. 32: N½, E½SW¼, W½SE¼	480
Sec. 33: NW¼	160
Sec. 34: E½NW¼, SW¼	240
T.22N., R.19E., PMM:	
Sec. 18: NW¼NW¼, S½NW¼, N½SW¼, SE¼SW¼, W½SE¼	320
Sec. 19: NE¼, N½SE¼, SW¼SE¼ S½SW¼,	360
Sec. 20: NE¼NE¼, W½NW¼	120
T.22N., R.20E., PMM:	
Sec. 3: S½S½, NE¼SE¼	200
Sec. 10: NW¼NE¼, N½NW¼	120
Blaine County	
T.29N., R.21E., PMM:	
Sec. 8: S½NE¼	80
T.35N., R.22E., PMM:	
Sec. 1: SE¼, N½SW¼, SE¼SW¼	280

	Acres
Sec. 2: S½	320
Sec. 11: W½	320
Sec. 12: N½N½, SE¼	320
T.35N., R.23E., PMM:	
Sec. 7: Lot 1	36.88
Sec. 29: E½SW¼, W½SE¼	160
Sec. 31: NE¼NE¼	40
Sec. 32: N½N½	160
T.35N., R.25E., PMM:	
Sec. 32: E½NE¼	80
Sec. 33: N½, SW¼, NE¼SE¼	520
T.36N., R.24E., PMM:	
Sec. 3: Lots 3 and 4	38.80
Sec. 10: N½, SE¼, SE¼SW¼	520
Sec. 14: N½NW¼, SW¼NW¼	120
Sec. 15: N½	320

Disposal of the Federal land described above was not analyzed in the Judith-Valley-Phillips and West HiLine Resource Management Plans (RMP) and their associated Environmental Impact Statements. Disposal of the Federal land requires that the specific tracts be identified in the land use plan with the criteria to be met for exchange and discussion of how the criteria have been satisfied. This will be part of the plan amendment and an Environmental Assessment will be prepared to analyze the effects of disposal.

DATES: Comments and recommendations on this notice to amend the Judith-Valley-Phillips RMP and the West HiLine RMP should be received on or before January 10, 2000.

ADDRESSES: Comments should be sent to David L. Mari, Field Manager, Lewistown Field Office, P.O. Box 1160, Lewistown, MT 59457–1160.

FOR FURTHER INFORMATION CONTACT: Loretta Park, Realty Specialist, 406/538–1910.

Dated: November 18, 1999.

David L. Mari,

Field Manager.

[FR Doc. 99–31995 Filed 12–9–99; 8:45 am]

BILLING CODE 4310–DN–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–420]

Certain Beer Products; Notice of a Commission Determination not to Review an Initial Determination Terminating the Investigation on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (''ALJ's'') initial determination (''ID'') granting the joint motion of complainant Anheuser-Busch, Inc. (''Anheuser-Busch'') and the sole remaining respondent, Budejovicky Budvar, N.P. (''Budvar''), to terminate the above-captioned investigation on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: Andrea C. Casson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3105. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: On May 27, 1999, the Commission instituted this investigation based on a complaint filed by Anheuser-Busch, alleging a violation of section 337 of the Tariff Act of 1930 in the importation and sale of certain beer products by reason of infringement of U.S. Trademark Registration Nos. 922,481, 952,277, or 666,637. 64 FR 30058. Two firms were named as respondents: Argen-Wine Imports, Ltd. of Belcamp, Maryland and Budvar of the Czech Republic.

On July 26, 1999, the ALJ issued an ID terminating the investigation as to Argen on the basis of a consent order stipulation and proposed consent order. The Commission did not review that ID and it became the determination of the Commission on August 26, 1999.

On October 21, 1999, complainant Anheuser-Busch and Budvar, the only remaining respondent, filed a joint motion to terminate the investigation on the basis of a consent order stipulation and proposed consent order. The Commission investigative attorney supported the motion.

On November 3, 1999, the ALJ issued an ID (Order No. 14) terminating the investigation based on the joint stipulation and proposed consent order. No party petitioned for review of the ID pursuant to 19 CFR 210.43(a), and the Commission found no basis for ordering a review on its own initiative pursuant to 19 CFR 210.44. The ID thus became the determination of the Commission pursuant to 19 CFR 210.42(h)(3). In response to a concern raised by the IA and the ALJ regarding activities prohibited by the consent order, the Commission notes that any enforcement of the consent order would be limited to products within the scope of the investigation.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

Issued: December 3, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–32081 Filed 12–9–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract

work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. Theses decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW, Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York:
NY990002 (Mar. 12, 1999)
NY990003 (Mar. 12, 1999)
NY990004 (Mar. 12, 1999)
NY990006 (Mar. 12, 1999)
NY990007 (Mar. 12, 1999)
NY990008 (Mar. 12, 1999)
NY990009 (Mar. 12, 1999)
NY990010 (Mar. 12, 1999)
NY990013 (Mar. 12, 1999)
NY990014 (Mar. 12, 1999)
NY990016 (Mar. 12, 1999)
NY990017 (Mar. 12, 1999)
NY990018 (Mar. 12, 1999)
NY990021 (Mar. 12, 1999)
NY990025 (Mar. 12, 1999)
NY990026 (Mar. 12, 1999)
NY990031 (Mar. 12, 1999)
NY990033 (Mar. 12, 1999)
NY990038 (Mar. 12, 1999)
NY990039 (Mar. 12, 1999)
NY990040 (Mar. 12, 1999)
NY990041 (Mar. 12, 1999)
NY990044 (Mar. 12, 1999)
NY990045 (Mar. 12, 1999)
NY990049 (Mar. 12, 1999)
NY990060 (Mar. 12, 1999)
NY990072 (Mar. 12, 1999)
NY990074 (Mar. 12, 1999)
NY990076 (Mar. 12, 1999)

Volume II

Maryland:
MD990003 (Mar. 12, 1999)
MD990007 (Mar. 12, 1999)
MD990059 (Mar. 12, 1999)
Pennsylvania:
PA990007 (Mar. 12, 1999)
PA990014 (Mar. 12, 1999)
PA990021 (Mar. 12, 1999)
PA990029 (Mar. 12, 1999)
PA990042 (Mar. 12, 1999)
PA990060 (Mar. 12, 1999)
Virginia:
VA990052 (Mar. 12, 1999)

Please note that Anne Arundel and Queen Anne's Counties are now included in MD990059.

Volume III

Florida:
FL990002 (Mar. 12, 1999)
FL990015 (Mar. 12, 1999)

Volume IV

Indiana:
IN990001 (Mar. 12, 1999)
IN990002 (Mar. 12, 1999)
IN990003 (Mar. 12, 1999)
IN990004 (Mar. 12, 1999)
IN990005 (Mar. 12, 1999)
IN990006 (Mar. 12, 1999)
IN990010 (Mar. 12, 1999)
IN990016 (Mar. 12, 1999)
IN990017 (Mar. 12, 1999)
IN990018 (Mar. 12, 1999)
IN990024 (Mar. 12, 1999)
IN990039 (Mar. 12, 1999)
IN990059 (Mar. 12, 1999)
IN990061 (Mar. 12, 1999)

Volume V

Kansas:
KS990006 (Mar. 12, 1999)
KS990008 (Mar. 12, 1999)
KS990009 (Mar. 12, 1999)
KS990012 (Mar. 12, 1999)
KS990016 (Mar. 12, 1999)
KS990025 (Mar. 12, 1999)
KS990061 (Mar. 12, 1999)
KS990069 (Mar. 12, 1999)
KS990070 (Mar. 12, 1999)
Missouri:
MO990008 (Mar. 12, 1999)
MO990014 (Mar. 12, 1999)
MO990051 (Mar. 12, 1999)
Texas:
TX990009 (Mar. 12, 1999)
TX990014 (Mar. 12, 1999)
TX990019 (Mar. 12, 1999)
TX990023 (Mar. 12, 1999)
TX990064 (Mar. 12, 1999)
TX990081 (Mar. 12, 1999)

Volume VI

None

Volume VII

Arizona:
AZ990001 (Mar. 12, 1999)
AZ990002 (Mar. 12, 1999)
AZ990003 (Mar. 12, 1999)
AZ990004 (Mar. 12, 1999)
AZ990014 (Mar. 12, 1999)
AZ990016 (Mar. 12, 1999)
California:
CA990029 (Mar. 12, 1999)
CA990030 (Mar. 12, 1999)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 2nd day of December 1999.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 99–31641 Filed 12–9–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Qualification and Certification Program

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before February 8, 2000.

ADDRESSES: Send comments to Dianne B. Hill, Program Analysis Officer, Office of Program Evaluation and Information Resources, 4015 Wilson Boulevard, Room 715, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to dhill@msha.gov, along with an original printed copy. Ms. Hill can be reached at (703) 235–1470 (voice) or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Diane B. Hill, Program Analysis Officer, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 719, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Hill can be reached at dhill@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Persons performing tasks and certain required examinations at coal mines which are related to miner safety and health, and which require specialized experience, are required to be either ''certified'' or ''qualified''. The regulations recognize State certification and qualification programs. However, where state programs are not available, under the Mine Act and MSHA standards, the Secretary may certify and qualify persons for as long as they continue to satisfy the requirements needed to obtain the certification or qualification, fulfill any applicable retraining requirements, and remain employed at the same mine or by the same independent contractor.

Applications for Secretarial certification must be submitted to the MSHA Qualification and Certification Unit in Denver, Colorado. MSHA Forms 5000–4 and 5000–7 provide the coal mining industry with a standardized reporting format which expedites the certification process while ensuring compliance with the regulations. The information provided on the forms enables the Secretary of Labor's delegate—MSHA, Qualification and Certification Unit—to determine if the applicants satisfy the requirements to obtain the certification or qualification. Persons must meet certain minimum experience requirements depending on the type of certification or qualification applied for.

II. Desired Focus on Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Qualification and Certification Program. MSHA 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.

A copy of the proposed information collection request can be obtained by contacting the employee listed above in the For Further Information Contact section of this notice.

III. Current Actions

This request for collection of information contains provisions whereby persons may be temporarily qualified or certified to perform tests and examinations; requiring specialized expertise; related to miner safety and health at coal mines.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Qualification and Certification Program.

Agency Number: MSHA Forms 5000–4 and 5000–7.

OMB Number: 1219–0069.

Affected Public: Business or other for-profit.

Cite/reference	Total respondents	Frequency	Total responses	Average time per response (hours)	Burden hours*
75.100(c)(1) and 77.100(b)(2)	578	On occasion	2,428	0.0833	202
75.155(a)(2) and 77.105(a)(2)	33	On occasion	133	0.0833	11
Total	611		2,561	0.0831	213

*Discrepancies due to rounding.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $202.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 3, 1999.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 99–32056 Filed 12–9–99; 8:45 am]

BILLING CODE 4510–43–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–440]

FirstEnergy Nuclear Operating Company; Perry Nuclear Power Plant, Unit 1 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. NPF–58, issued to the FirstEnergy Nuclear Operating Company (the licensee), for operation of the Perry Nuclear Power Plant, Unit 1, located in Lake County, Ohio.

Environmental Assessment

Identification of the Proposed Action

The proposed action would eliminate the requirement in the Environmental Protection Plan to perform semi-annual (late spring and early fall) sampling of Lake Erie sediment in the Perry and Eastlake Plant area for Corbicula (i.e., Asiatic clams).

The proposed action is in accordance with the licensee's application for amendment dated September 9, 1999.

The Need for the Proposed Action

The Perry Environmental Protection Plan was modified in 1988 to require semi-annual (late spring and early fall) sampling of areas at Perry and the licensee's Eastlake Plant to detect the presence of Corbicula. The purpose of the monitoring program is to provide for sufficient time to prepare for prevention and control programs, should Corbicula be detected at the Perry site. Corbicula, which have been detected in Lake Erie at the Eastlake Plant since June 1987, have not been detected at the Perry site. Zebra Mussels have been detected at the Perry site since 1987 and an effective control program has been implemented to suppress their growth and minimize the potential for system biofouling. The licensee has concluded that the control program used for Zebra Mussels at the Perry site would be equally effective against Corbicula. Therefore, since adequate control programs have already been implemented at the Perry site, there would be no apparent benefit in requiring the licensee to perform semi-annual sampling for their detection. The proposed action is needed to eliminate the sampling program in the Environmental Protection Plan. The elimination of the sampling program will result in savings of about $22,000 per year.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that it is acceptable because the control program currently implemented to monitor and mitigate potential biofouling by Zebra Mussels would be equally effective for Corbicula.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Perry Nuclear Power Plant, Unit 1.

Agencies and Persons Consulted

In accordance with its stated policy, on October 27, 1999, the staff consulted with the Ohio State official, Carol O'Claire, of the Ohio Emergency Management Agency, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated September 9, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room).

Dated at Rockville, Maryland, this 7th day of December 1999.

For the Nuclear Regulatory Commission.

Douglas V. Pickett,

Senior Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–32058 Filed 12–9–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 3 of Regulatory Guide 1.105, ''Setpoints for Safety-Related Instrumentation,'' describes a method acceptable to the NRC staff for complying with the NRC's regulations for ensuring that setpoints for safety-related instrumentation are initially within and remain within the technical

specification limits. The guide is being revised to endorse Part 1 of an Instrument Society of America standard, ISA–S67–1994, ''Setpoints for Nuclear Safety-Related Instrumentation.'' This standard provides a basis for establishing setpoints for nuclear instrumentation for safety systems.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Recent regulatory guides, both draft and active, may be read or downloaded from the NRC website at http://www.nrc.gov. Single copies of regulatory guides may be obtained free of charge by writing the Reproduction and Distribution Services Section, OCIO, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax to (301) 415–2289. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 29th day of November 1999.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 99–32059 Filed 12–9–99; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Proposed Submission of Information Collection for OMB Review; Comment Request; Customer Satisfaction Surveys and Focus Groups

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of intention to request OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation intends to request that the Office of Management and Budget extend and expand its approval of an information collection under the Paperwork Reduction Act. The purpose of the information collection, which will be conducted through focus groups and surveys over a three-year period, is to help the PBGC assess the efficiency and effectiveness with which it serves its customers and to design actions to address identified problems. The PBGC invites public comment on this information collection.

DATES: Comments should be submitted by February 8, 2000.

ADDRESSES: All written comments should be addressed to: Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 340, 1200 K St. NW., Washington, DC 20005–4026. The comments will be available for public inspection between 9:00 a.m. and 4:00 p.m. at the PBGC's Communications and Public Affairs Department, Suite 240, at the above address.

FOR FURTHER INFORMATION CONTACT: Thomas H. Gabriel, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, (202) 326–4020, extension 3898. (For TTY and TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

SUPPLEMENTARY INFORMATION: 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 PBGC intends to request that the Office of Management and Budget extend its approval, for a three-year period, of a generic collection of information consisting of customer satisfaction focus groups and surveys (OMB control number 1212–0053; expires April 30, 1999). The PBGC also intends to request that the Office of Management and Budget expand its approval to encompass a broader range of surveys than those approved under 1212–0053, which provided for surveys only as an adjunct to focus groups. The expanded information collection will further the goals of Executive Order 12862, Setting Customer Service Standards, which states the Federal Government must seek to provide ''the highest quality of service delivered to customers by private organizations providing a comparable or analogous service.''

The PBGC uses customer satisfaction focus groups and surveys to find out about the needs and expectations of its customers and assess how well it is meeting those needs and expectations. By keeping these avenues of communication open, the PBGC can continually improve service to its customers, including plan participants and beneficiaries, plan sponsors and their affiliates, plan administrators, pension practitioners, and others involved in the establishment, operation and termination of plans covered by the PBGC's insurance program. Because the areas of concern to the PBGC and its customers vary and may quickly change, it is important that the PBGC have the ability to evaluate customer concerns quickly by developing new vehicles for gathering information under this generic approval. The PBGC intends to include in this information collection two surveys already approved by the Office of Management and Budget (OMB Approval Nos. 1212–0056 and 1212–0058).

Participation in the focus groups and surveys will be voluntary. The PBGC will consult with the Office of Management and Budget regarding each specific information collection during the approval period.

The PBGC estimates that the annual burden for this collection of information will total 2,000 hours for 8,000 respondents.

The PBGC is specifically seeking public comments to:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) evaluate the accuracy of the estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology e.g., permitting electronic submission of responses.

Issued at Washington, DC, this 6th day of December, 1999.

Stuart A. Sirkin,

Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.

[FR Doc. 99–32096 Filed 12–9–99; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–24184, 812–11754]

Harris Insight Funds Trust and Harris Trust and Savings Bank; Notice of Application

December 6, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an exemption under section 6(c) of the Investment Company Act of 1940 (''Act'') from section 15(a) of the Act and rule 18f–2 under the Act.

Summary of Application: The order would permit applicants to enter into and materially amend sub-advisory agreements without shareholder approval.

Applicants: Harris Insight Funds Trust (the ''Trust'') and Harris Trust and Savings Bank (the ''Adviser'').

Filing Date: The application was filed on September 17, 1999. Applicants have agreed to file an amendment to the application, the substance of which is reflected in this notice, during the notice period.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on January 3, 2000, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20540–0609. Applicants, Four Falls Corporate Center, 6th Floor, West Conshohocken, Pennsylvania 19428–2961 (Trust) and 111 West Monroe Street/6W, Chicago, Illinois 60602 (Adviser).

FOR FURTHER INFORMATION CONTACT: Paula L. Kashtan, Senior Counsel, at (202) 942–0615, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Trust, a Massachusetts business trust, is registered under the Act as an open-end management investment company. The Trust currently is comprised of thirteen separate series (the ''Funds''), each with its own investment objectives, policies, and restrictions.[1]

2. The Adviser, an Illinois banking corporation, is exempt from registration under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser for each of the Funds under an investment advisory agreement (''Advisory Agreement''). Under the Advisory Agreement, the Adviser is responsible, subject to the ongoing supervision of the Trust's board of trustees (''Board''), for administering all operations of the Trust, and is ultimately responsible for the management of the Trust's investments. For its services, the Adviser receives from each Fund a fee based on the Fund's average daily net assets.

3. The Advisory Agreement provides that the Adviser may delegate its advisory duties to Harris Investment Management, Inc. (''HIM''), an investment adviser registered under the Advisers Act. The Adviser and HIM are each wholly-owned subsidiaries of Harris Bankcorp, Inc. Each Fund currently is advised by HIM pursuant to a separate investment advisory agreement (''Subadvisory Agreement''). Under the Subadvisory Agreement, HIM is responsible for managing the assets of each Fund for which it serves as the sole subadviser. HIM's duties consist of making discretionary investment decisions on behalf of the Funds and conducting any research that may be necessary to formulate investment decisions. For its services, HIM receives from the Adviser a fee based on the average daily net assets of a Fund.

4. HIM, in turn, has entered into a Subadvisory Agreement with Hansberger Global Investors, Inc. (''HGI''), an investment adviser registered under the Advisers Act, which serves as sub-subadviser with respect to two of the Funds. HGI is not affiliated with the Adviser. HGI is responsible for making investment decisions for these two Funds after obtaining and evaluating appropriate economic, statistical, and financial information. For its services, HGI receives from HIM a fee based on the average daily net assets of the two Funds.

5. In the future, the Adviser may delegate its responsibility for providing investment advice or making investment decisions for a particular Fund to other subadvisers (together with HIM and HGI, ''Subadvisers'') and may employ multiple Subadvisers for a single Fund. The Adviser will recommend the selection or termination of any Subadvisers to the Board, and all future Subadvisers will be approved by the Board. In the event of such delegation, the Adviser will oversee and monitor the performance of each Subadviser, will allocate and, when appropriate, reallocate a Fund's assets among Subadvisers, and will compensate each Subadviser out of fees paid to the Adviser by the Funds. Any future Subadviser will be registered under the Advisers Act or exempt from registration.

6. Applicants state that the Adviser has longstanding and substantial experience managing assets itself and managing external, unaffiliated managers. Applicants believe that the allocation of responsibilities between the Adviser and the Subadvisers benefits shareholders because of the specialization and efficiency it provides. Applicants request relief to permit the Adviser to enter into and materially amend Subadvisory Agreements without obtaining shareholder approval. The requested relief will not extend to HIM or any other Subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust or the Adviser, other than by reason of serving as a Subadviser to one or more of the Fund (''Affiliated Subadviser'').

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser to a registered investment company except under a written contract that has been approved by a majority of the investment company's outstanding voting securities. Rule 18f–2 under the Act provides that each series or class of stock in a series company affected by a matter must approve the matter if the Act requires shareholder approval.

2. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the

[1] Applicants also request relief with respect to future series of the Trust and all future registered open-end management investment companies that: (a) Are advised by the Adviser or any entity controlling, controlled by or under common control with the Adviser; (b) use the adviser/subadviser structure described in the application; and (c) comply with the terms and conditions in the application (''Future Funds''). The Trust is the only existing investment company that currently intends to rely on the order.

Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

3. Applicants assert that the Fund's shareholders rely on the Adviser to select the Subadvisers best suited to achieve a Fund's investment objectives. Therefore, applicants assert that, from the perspective of the investor, the role of the Subadvisers is comparable to that of individual portfolio managers employed by other investment advisory firms. Applicants submit that the requested relief will reduce the Funds' expenses associated with shareholder meetings and proxy solicitations, and enable the Funds to operate more efficiently. Applicants also note that the Advisory Agreement will remain subject to sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the order requested in the application, the operation of the Fund in the manner described in the application will be approved by a majority of its outstanding voting securities, as defined in the Act, or, in the case of a Future Fund whose shareholders purchased shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder(s) before offering shares of the Future Fund to the public.

2. The Trust will disclose in its prospectus the existence, substance, and effect of any order granted pursuant to the application. In addition, each Fund will hold itself out to the public as employing the management structure described in the application. The prospectus for each Fund will prominently disclose that the Adviser has the ultimate responsibility, subject to review of the Board, to oversee Subadvisers and recommend their hiring, termination, and replacement.

3. At all times, a majority of the board will be persons each of whom is not an ''interested person'' of the Trust as defined in Section 2(a)(19) of the Act (''Independent Trustees''), and the nomination of new or additional Independent Trustees will be at the discretion of the then-existing Independent Trustees.

4. The Adviser will not enter into a Sub-Advisory Agreement on behalf of a Fund with any Affiliated Subadviser, unless that agreement, including the compensation to be paid thereunder, has been approved by the shareholders of the applicable Fund.

5. When a Subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected in the Board's minutes, that the change of Subadviser is in the best interests of the Fund and its shareholders and that the change does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

6. Within 90 days of the hiring of any Subadviser, shareholders of the affected Fund will be furnished with all information about the new Subadviser that would be included in a proxy statement. The Adviser will meet this condition by providing shareholders of the applicable Fund with an information statement meeting the requirement of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

7. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's portfolio, and, subject to review and approval by the Board, will (i) Set the Fund's overall investment strategies; (ii) Select Subadvisers; (iii) When appropriate, recommend to the Board the allocation and allocation of a Fund's assets among multiple Subadvisers; (iv) Monitor and evaluate the performance of Subadvisers; and (v) Ensure that the Subadvisers comply with the Fund's investment objectives, policies, and restrictions.

8. No trustee or officer of the Trust or director or officer of the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by that trustee, director or officer) any interest in a Subadviser except for (i) Ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser or (ii) Ownership of less that 1% of the outstanding securities of any class of equity or debt of a publicly-traded company that is either the Subadviser or an entity that controls, is controlled by, or is under common control with the Subadviser. For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32061 Filed 12–9–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 24183; 812–11706]

The Payden & Rygel Investment Group and Payden & Rygel; Notice of Application

December 6, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under sections 6(c), 12(d)(1)(J), and 17(b) of the Investment Company Act of 1940 (the ''Act'') for exemptions from sections 12(d)(1)(A) and (B) and 17(a) of the Act, and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

Summary of the Application: The requested order would permit certain registered management investment companies to invest uninvested cash and cash collateral in affiliated money market funds in excess of the limits in sections 12(d)(1)(A) and (B) of the Act.

Applicants: The Payden & Rygel Investment Group (''P&R Group''), and all existing and future registered management investment companies for which Payden & Rygel (''Payden'') serves in the future as an investment adviser (collectively, the ''Investment Companies'') and all existing and future series of the Investment Companies (''Funds''), and Payden.

Filing Dates: The application was filed on July 20, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on December 28, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request

notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Applicants, c/o Wendell M. Faria, Esq., Paul Hastings, Janofsky and Walker, LLP, 1299 Pennsylvania Avenue, NW, 10th Floor, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714, or George J. Zornada, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. The P&R Group, a Massachusetts business trust, is registered under the Act as an open-end management investment company. The P&R Group currently consists of twenty-three Funds, including the Bunker Hill Money Market Fund which holds itself out as a money market fund and is subject to the requirements of rule 2a–7 under the Act (together with any other future money market Funds, ''Money Market Funds'').[1] Payden, a privately-owned California company, is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and serves as investment adviser to each Fund.

2. Applicants state that each of the Funds has, or may have, uninvested cash held by its custodian (''Uninvested Cash''). Such Uninvested Cash may result from a variety of sources, including dividends or interest received on portfolio securities, unsettled securities transactions, strategic reserves, matured investments, proceeds from liquidation of investment securities, dividend payments, or money received from investors. The Funds also may participate in a securities lending program under which a Fund may lend its portfolio securities to broker-dealers or other institutional investors (''Securities Lending Program''). The loans are continuously secured by collateral equal at all times to at least the market value of the securities loaned. Collateral for these loans may include cash (''Cash Collateral,'' and together with Uninvested Cash, ''Cash Balances'').

3. Applicants request an order to permit each of the Funds (''Investing Funds'') to invest their Cash Balances in one or more Money Market Funds, and the Money Market Funds to sell their shares to, and redeem their shares from, the Investing Funds. Investment of Cash Balances in shares of Money Market Funds will be made only to the extent that such investments are consistent with each Investing Fund's investment restrictions and policies as set forth in its prospectus and statement of additional information. Applicants believe that the proposed transactions may reduce transaction costs, create more liquidity, increase returns, and diversify holdings.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides, in pertinent part, that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) of the Act, in pertinent part, provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(l)(J) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of section 12(d)(l) if, and to the extent that, such exemption is consistent with the public interest and the protection of investors. Applicants request relief under section 12(d)(l)(J) from the limitations of sections 12(d)(l)(A) and (B) to permit the Investing Funds to invest Cash Balances in Money Market Funds.

3. Applicants state that the proposed arrangement would not result in the abuses that sections 12(d)(l)(A) and (B) were intended to prevent. Applicants state that because each Money Market Fund will maintain a highly liquid portfolio, an Investing Fund will not be in a position to gain undue influence over a Money Market Fund through threat of redemption. Applicants represent that the proposed arrangement will not result in an inappropriate layering of fees because shares of the Money Market Funds sold to the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act, or service fee (as defined in rule 2830 of the National Association of Securities Dealers' (''NASD'') Conduct Rules), or, if such shares are subject to any such sales load, redemption fee, distribution fee or service fee, Payden will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund. In connection with approving any advisory contract for an Investing Fund, the Investing Fund's board of directors of trustees (the ''Board''), including a majority of the directors or trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors or Trustees'') will consider to what extent, if any, the advisory fees charged to the Investing Fund by Payden should be reduced to account for reduced services provided to the Investing Fund by Payden as a result of the investment of Uninvested Cash in the Money Market Funds. Applicants represent that no Money Market Fund will acquire securities of any other investment company of the limitations contained in section 12(d)(1)(A) of the Act.

4. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of an investment company to include, among others, any person directly or indirectly controlling, controlled by, or under common control with the other person and any person owning, controlling, or holding with power to vote, 5% or more of the other person. Applicants state that, because the Funds share a common adviser, each Fund may be deemed to be under common control with each of the other Funds, and thus an affiliated person of each of the other Funds. In addition, if the relief is granted, an Investing Fund may acquire 5% or more of a Money Market Fund and become an affiliated person of the Money Market Fund. As a result, section 17(a) would prohibit the sale of the shares of a Money Market Fund to the Investing Funds, and the redemption of the shares by a Money Market Fund.

[1] All Investment Companies and Funds that currently intend to rely on the requested relief are named as applicants. Any other Investment Companies and Funds that may rely on the relief in the future will do so only in accordance with the terms and conditions of the application.

5. Section 17(b) of the Act authorizes the Commission to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the proposed transaction is consistent with the policy of each investment company concerned, and the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt persons or transactions from any provision of the Act if the exemption is necessary or appropriate in the public interested and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

6. Applicants submit that their request for relief to permit the purchase and redemption of shares of a Money Market Fund by the Investing Funds satisfies the standards in sections 6(c) and 17(b) of the Act. Applicants note that shares of the Money Market Funds will be purchased and redeemed at their net asset value, the same consideration paid and received for these shares by any other shareholder. Applicants state that the Investing Funds will remain their ability to invest Cash Balances directly in money market instruments as authorized by their respective investment objectives and policies if they believe they can obtain a higher rate of return, or for any other reason. Applicants also state that a Money Market Fund has the right to discontinue selling shares to any of the Investing Funds if the Money Market Fund's Board determines that such sale would adversely affect its portfolio management and operations.

7. Section 17(d) of the Act and rule 17d–1 under the Act prohibit an affiliated person of an investment company, acting as principal, from participating in or effecting any transaction in connection with any joint enterprise or joint arrangement in which the investment company participates. Applicants state that each Investing Fund, by purchasing shares of a Money Market Fund, Payden, by managing the assets of the Investing Funds investing in a Money Market Fund, and a Money Market Fund, by selling shares to the Investing Funds, could be deemed to be participants in a joint enterprise or arrangement within the meaning of section 17(d) of the Act and rule 17d–1 under the Act.

8. Rule 17d–1 permits the Commission to approve a proposed joint transaction covered by the terms of section 17(d) of the Act. In determining whether to approve a transaction, the Commission is to consider whether the proposed transaction is consistent with the provisions, policies, and purposes of the Act, and the extent to which the participation is on a basis different from or less advantageous than that of other participants. Applicants submit that the investment by the Investing Funds in shares of a Money Market Fund would be on the same basis and would be indistinguishable from any other shareholder account maintained by the same class of the Money Market Fund and that the transactions will be consistent with the Act.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Shares of the Money Market Funds sold to and redeemed by the Investing Funds will not be subject to a sales load, redemption fee, distribution fee under a plan adopted in accordance with rule 12b–1 under the Act or service fee (as defined in rule 2830(b)(9) of the NASD's Conduct Rules), or if such shares are subject to any such fee, Payden will waive its advisory fee for each Investing Fund in an amount that offsets the amount of such fees incurred by the Investing Fund.

2. Prior to reliance on the order, an Investing Fund will hold a meeting of the Board for the purpose of voting on the advisory contract under section 15 of the Act. Before approving any advisory contract for an Investing Fund, the Board, including a majority of the Independent Directors or Trustees, taking into account all relevant factors, shall consider to what extent, if any, the advisory fees charged to the Investing Fund by Payden should be reduced to account for reduced services provided to the Fund by Payden as a result of the Uninvested Cash being invested in the Money Market Fund. In connection with this consideration, Payden will provide the Board with specific information regarding the approximate cost to Payden of, or portion of the advisory fee under the existing advisory contract attributable to, managing the Uninvested Cash of the Investing Fund that can be expected to be invested in the Money Market Fund. The minute books of the Investing Fund will record fully the Board's considerations in approving the advisory contract, including the consideration relating to fees referred to above.

3. Each Investing Fund will invest Uninvested Cash in, and hold shares of, the Money Market Funds only to the extent that the Investing Fund's aggregate investment in the Money Market Funds does not exceed 25 percent of the Investing Fund's total assets. For purposes of this limitation, each Investing Fund will be treated as a separate investment company.

4. Investment of Cash Balances in shares of the Money Market Funds will be in accordance with each Investing Fund's respective investment restrictions, if any, and will be consistent with each Investing Fund's policies as set forth in its prospectuses and statements of additional information.

5. Each Investing Fund, each Money Market Fund, and any future Fund that may rely on the order shall be part of the same group of investment companies, as defined in section 12(d)(1)(G)(ii) of the Act and shall be advised or, provided Payden manages Cash Balances, subadvised by Payden, or a person controlling, controlled by, or under common control with Payden.

6. No Money Market Fund whose shares are acquired by an Investing Fund shall acquire securities of any investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Before a Fund may participate in Securities Lending Arrangements, a majority of the Board, including a majority of the Independent Directors or Trustees, will approve the Fund's participation in Securities Lending Arrangements. Such Independent Directors or Trustees also will evaluate the Securities Lending Arrangements and their results no less frequently than annually and determine that any investment of Cash Collateral in the Money Market Funds is in the best interest of the shareholders of the Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32063 Filed 12–9–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27108]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

December 3, 1999.

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 under the Act. All interested persons are referred to the applications(s) and/or declaration(s) for

complete statements of the proposed transactions(s) summarized below. The application(s) and/or declarations(s) and any amendments is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the applications(s) and/or declaration(s) should submit their views in writing by December 27, 1999, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549–0609, 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 should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified if any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After December 27, 1999, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Carolina Power & Light Company (70–9559)

CP&L Holdings, Inc. (''Holdings''), 411 Fayetteville Street, Raleigh, North Carolina 27601–1748, a North Carolina corporation not currently subject to the Act and a subsidiary of Carolina Power & Light Company (''CP&L''), an exempt electric public utility holding company under section 3(a)(2) of the Act, has filed an application under sections 9(a)(2) and 10 of the Act.

In summary, Holdings proposes to acquire all of the issued and outstanding shares of common stock of CP&L and, through the acquisition, CP&L's gas utility subsidiary company, North Carolina Natural Gas Corporation (''NCNG''), and CP&L's direct and indirect nonutility subsidiary companies (''Reorganization''). Following the proposed Reorganization, Holdings will be a public utility holding company and intends to claim an exemption from all provisions of the Act except section 9(a)(2) under section 3(a)(1) in accordance with rule 2 of the Act.

CP&L is an electric public utility company operating in North Carolina and northeastern South Carolina. It is primarily engaged in the business of generating, purchasing, transmitting and distributing electricity to approximately 1.2 million customers. CP&L is subject to regulation by the North Carolina Utilities Commission (''NCUC'') and the South Carolina Public Service Commission regarding retail electric rates, securities issuances, affiliate transactions, and other matters.

CP&L's sole utility subsidiary, NCNG, is a gas utility company operating in North Carolina. It engages in the transportation and distribution of natural gas to approximately 178,000 customers. NCNG is subject to regulation by the NCUC regarding rates, securities issuances, affiliate transactions, and other matters.

CP&L has eight wholly owned nonutility subsidiaries and holds partial interests in subsidiaries that invest in affordable housing projects, renovate historic buildings and provide venture capital for the development and commercialization of electric utility technologies. The eight wholly owned nonutility subsidiaries and their primary businesses are: (1) Cape Fear Energy Corporation, which markets gas and provides energy management services; (2) Capitan Corporation holds title to certain land and water rights; (3) CaroFinancial holds various passive investments for CP&L; (4) CaroFund, Inc. indirectly invests in affordable housing projects; (5) NCNG Energy Corporation holds certain energy-related investments and sells natural gas to resellers; (6) Interpath Communications, Inc. provides internet-based services and markets fiber optics capacity; (7) Monroe Power Company is an ''exempt wholesale generator,'' as defined in section 32 of the Act; and (8) Strategic Resources Solutions Corporation designs, develops, installs and provides facilities and energy management software systems and other services.

For the year ended December 31, 1998, CP&L's consolidated operating revenues, adjusted to reflect the results of operations for NCNG in 1998, were $3.4 billion, of which $3.1 billion (92%) were derived from electric utility operations, $152 million (4.5%) from regulated natural gas operations, and $122 million (3.5%) from diversified nonutility activities. At December 31, 1998, CP&L reported adjusted consolidated assets of $8.6 billion, including net electric utility plant of $5.8 billion and net gas utility plant of $209 million.

The Reorganization will be accomplished through an exchange of each outstanding share of CP&L common stock for one share of Holdings common stock. As a result of the Reorganization, Holdings will own all of CP&L's common stock and CP&L will be a public utility subsidiary company of Holdings. Following the Reorganization, the common stock of NCNG and some of CP&L's existing nonutility subsidiaries may be transferred to Holdings. CP&L's board of directors unanimously approved the Reorganization. In addition, at a special meetings of shareholders on October 20, 1999, the Reorganization was approved by the affirmative vote of both a majority of all votes entitled to be cast by holders of CP&L's $5 Preferred Stock, Serial Preferred Stock and Common Stock, voting together as a single class, and a majority of all of the votes entitled to be cast by the holders of CP&L's Common Stock, voting as a separate class.

Holdings states that the holding company structure will enable CP&L to respond more effectively to the changes facing the energy industry today and to take advantage of the opportunities that will be available in the coming years. Among other benefits, the formation of a holding company will permit a clearer separation of CP&L's regulated and unregulated businesses, and will provide greater flexibility in establishing and financing new business initiatives. The holding company structure will also allow CP&L's management to make decisions based on the specific needs and characteristics of these nonutility businesses, such as financing requirements and capital structures, outside of the regulatory regime.

For the Commission by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc 99–32062 Filed 12–9–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of December 13, 1999.

An open meeting will be held on Wednesday, December 15, 1999 at 10:00 a.m.

The subject matters of the open meeting scheduled for Wednesday, December 15, 1999, at 10:00 a.m., will be:

(1) proposed new rules to address three issues: (a) the selective disclosure by issue of material nonpublic information; (b) whether insider trading liability requires ''use'' or ''knowing possession'' of material nonpublic information; and (c) when a family or other non-business relationship gives rise to liability under the

misappropriation theory of insider trading.

FOR FURTHER INFORMATION CONTACT: Richard A. Levine, Assistant General Counsel; or Sharon Zamore, Senior Counsel; or Elizabeth Nowicki, Attorney, Office of the General Counsel (202–942–0890).

(2) adoption of new rules and amendments to its current rules to improve disclosure relating to the functioning of corporate audit committees and to enhance the reliability and credibility of financial statements of public companies.

FOR FURTHER INFORMATION CONTACT: Meridith Mitchell, Senior Counselor, Office of the General Counsel (202–942–0900), W. Scott Bayless, Associate Chief Accountant, or Robert E. Burns, Chief Counsel, Office of the Chief Accountant (202–942–4400); or Mark Borges, Attorney-Adviser, Division of Corporate Finance (202–942–2900).

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: The Office of the Secretary at (202) 942–7070.

Dated: December 7, 1999.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32171 Filed 12–8–99; 12:33 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42198; File No. SR–CHX–99–17]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to Voluntary Delisting Requirements

December 2, 1999.

I. Introduction

On September 24, 1999, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Article XXVIII, Rule 4 of the Exchange's rules to modify the prerequisites to voluntarily delist from the Exchange.

The proposed rule change was published for comment in the **Federal Register** on October 20, 1999.[3] No comments were received on the proposal. This order approves the proposal.

II. Description

The CHX proposes to amend Article XXVIII, Rule 4 of its rules to modify the prerequisites to voluntary delisting from the Exchange. Specifically, the proposed rule change would delete the requirement that an issuer to delist first obtain shareholder approval, replacing the deleted provision with a provision requiring that the issuer first file with the Exchange a certified copy of its board resolution authorizing delisting.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6 of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes that the proposed rule change is consistent with and furthers the objectives of Sections 6(b)(5) and 6(b)(8) of the Act.[4] Section 6(b)(5) of the Act requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.[5] Section 6(b)(5) also requires that the rules of an exchange must not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.[6] In addition, Section 6(b)(8)of the Act prohibits the rules of an exchange from imposing any burden on competition not necessary or appropriate in furtherance of the purpose of the statute.[7]

The CHX proposes to replace the current procedures governing voluntary delisting from the Exchange by an issuer.[8] In place of the current share holder approval requirement, the Exchange would now require that the issuer file with the Exchange a certified copy of a resolution adopted by the board of directors of the issuer, authorizing the withdrawal from listing and registration. The voluntary delisting procedures proposed by the CHX represent a significant and positive change over the current delisting process. In particular, the proposed voluntary delisting rule is considerably less burdensome than the existing shareholder approval requirement.

When shareholder approval requirements were first adopted, they were typically intended to protect shareholders at a time when an issuer's decision to delist from an exchange generally resulted in the loss of a public market for a security. With the development of established securities markets and changes in the competitive environment, many of the concerns that gave rise to the adoption of restrictions on voluntary delisting were rendered obsolete.

Over the last several years, the Commission and its staff have repeatedly expressed to the stock exchanges their concerns regarding the potentially anti-competitive effects of restrictions on voluntary delistings. The Commission's regulatory concerns centered upon its belief that such restrictions created nearly insurmountable obstacles for listed companies desiring to delist their securities from an exchange, and as such, impeded competition between securities markets. The Commission believes that the CHX's proposal should help to eliminate this impediment to intermarket competition.

The Commission also notes the CHX's proposal brings its voluntary delisting procedures in line with those of the Pacific Exchange, Inc. (''PCX''), the American Stock Exchange LLC (''Amex''), and the Philadelphia Stock Exchange, Inc. (''Phlx'').[9] The PCX, Amex and Phlx all require that an issuer submit a certified copy of a resolution adopted by the issuer's board of directors authorizing the withdrawal from listing and a statement detailing the reasons for the proposed withdrawal.[10] The Commission further

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 1240.19b–4.

[3] *See* Exchange Act Release No. 42001 (October 13, 1999), 64 FR 56553.

[4] 15 U.S.C. 78f(b)(5) and(8).

[5] 15 U.S.C. 78f(b)(5).

[6] *Id.*

[7] 15 U.S.C. 78f(b)(8). In approving this rule change, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation. *Id.* at 78c(f).

[8] In a July 21, 1999 letter, the staff requested the CHX to reexamine its voluntary delisting procedures, especially in light of the recent approval of amendments to the New York Stock Exchange's (''NYSE'') Rule 500, removing a number of restrictions on voluntary delistings. *See* Letter to David W. Fox, chairman, CHX, from Annette L. Nazareth, Director, Division of Market Regulation, Commission, dated July 21, 1999.

[9] *See* PCX Rule 3.4; Amex Rule 18; and Phlx Rule 809.

[10] In addition to requiring a detailed statement detailing the reasons for the proposed withdrawal, Amex retains the discretion to determine whether the reasons advanced by the issuer warrant withdrawal of the listing. In addition, Amex may require the issuer to send to all registered holders of the security at least fifteen days prior to the filing of the delisting application with the Commission a complete, clear and definite statement of the reasons and supporting facts for the withdrawal. *See* Amex Rule 18. PCX and Phlx also retain the

notes that it recently approved a proposed rule change by the NYSE, amending its voluntary delisting procedures.[11]

The Commission recognizes the significance of an issuer's decision regarding the appropriate market in which to list its securities. The Commission believes that issuers should carefully consider the best interests of their shareholders in both listing and delisting decisions, and that the CHX's proposal should ensure that due consideration is given to a decision regarding whether to delist from the Exchange. The Commission believes that the proposed rule change eliminates an onerous restriction on voluntary delistings. As a result, the Commission believes that the CHX's proposed rule change is consistent with the provisions of the Act.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–CHX–99–17) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32065 Filed 12–9–99; 8:45 am]

BILLING CODE 8010–01–M

discretion to require the issuer to submit the proposed withdrawal to the shareholders for a vote provided the security is not also listed on another exchange. *See* PCX Rule 3.4 and Phlx Rule 809.

[11] The NYSE's rule requires approval of the issuer's board of directors according to applicable state law on majority votes, as well as approval by the issuer's audit committee. In addition, a U.S. issuer must notify the thirty-five largest record holders. Foreign issuers must give notice to the thirty-five largest U.S. record holders. The issuer must also issue a press release. Finally, there is a minimum waiting period before a security may be delisted of twenty business days after the later of the date the notice is sent or the press release is issued, and a maximum period of sixty business days. *See* NYSE Rule 500. Although the NYSE's proposal did not ease voluntary delisting restrictions to the extent that the CHX's proposal does, it is indicative of the Commission's belief that impediments to competition in the context of voluntary delisting standards must be eased, if not eliminated.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42201; File No. SR–NASD–99–65]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to the Creation of a Corporate Bond Trade Reporting and Transaction Dissemination Facility and the Elimination of Nasdaq's Fixed Income Pricing System (''FIPS'')

December 3, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 28, 1999 the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD.[1] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend, delete and create numerous rules of the Association to establish a corporate bond trade reporting and transaction dissemination facility. Below is the text of the proposed changes. Proposed new language is in italics; proposed deletions are in brackets.

[6200. FIXED INCOME PRICING SYSTEM (FIPS) Rules 6210. Through 6260]

6200. TRADE REPORTING AND COMPARISON ENTRY SERVICE (TRACE)

6210. Definitions.

The terms used in this paragraph shall have the same meaning as those defined in the Association's By-Laws and Rules unless otherwise specified.

The term ''TRACE Eligible Security'' shall mean all United States dollar denominated debt securities that are registered with the Securities and Exchange Commission and issued by United States and/or foreign private corporations and that are depository eligible securities as defined in Rule 11310(d); all debt securities qualified as PORTAL securities pursuant to Rule 5000 Series; all investment-grade rated debt securities that are issued pursuant to Section 4(2) of the Securities Act of 1933 and that are depository eligible securities pursuant to Rule 11310(d).

(b) the term ''Trade Reporting And Comparison Entry Service'' or ''TRACE'' shall mean the automated system owned and operated by The Nasdaq Stock Market, Inc. that, among other things, accommodates reporting, comparison, and dissemination of transaction reports where applicable in TRACE Eligible Securities and which may submit ''locked-in'' trades to National Securities Clearing Corporation for clearance and settlement and provide participants with monitoring and risk management capabilities to facilitate a ''locked-in'' trading environment.

(c) The term ''reportable TRACE transaction'' shall mean all transactions in a TRACE Eligible Security as required by this rule.

(d) the term ''time of execution'' for a transaction in a TRACE-eligible security shall be the time when all of the terms of the transaction are agreed to which are sufficient to calculate the dollar price of the trade. The time of execution for transactions involving TRACE-eligible securities that are trading ''when issued'' on a yield basis shall be when the yield for the transaction has been agreed to by the parties.

(e) The term ''Parties to the Transaction'' shall mean the executing broker/dealer, introducing broker/dealer, and clearing brokers, if any.

(f) The term ''TRACE Participant'' shall mean any NASD member in good standing that uses the TRACE system.

(g) The term ''TRACE Reporting Party'' shall mean a member of the Association that is registered as a TRACE participant with the Association and obligated to report a TRACE transaction pursuant to TRACE system rules and who is member of a registered clearing agency for clearing or comparison purposes or has a clearing arrangement with such a member.

(h) The term ''TRACE Non-Reporting Party'' shall mean a member of the Association that is registered as a TRACE participant with the Association who is not obligated to report under TRACE system rules for a particular transaction to which it is a party and who is a member of a registered clearing agency for clearing or comparison purposes or has a clearing arrangement with such a member. it shall also mean

[1] The NASD also agreed to extend the comment period to 60 days and the time within which the Commission must approve the filing or institute proceedings to determine whether the proposed rule change should be disapproved to 120 days. Telephone call to Thomas Moran, Office of General Counsel, The Nasdaq Stock Market, Inc., from Kevin Ehrlich, Attorney, Division of Market Regulation, SEC, November 22, 1999.

any customer who is not a member of the Association.

(i) The term ''Clearing Broker/Dealer'' or ''Clearing Broker'' shall mean the member firm that has been identified in the TRACE system as principal for clearing and settling a trade, whether for its own account or for a correspondent firm.

(j) The term ''Correspondent Executing Broker/Dealer'' or ''Correspondent Executing Broker'' shall mean the member firm that has been identified in the TRACE system as having a correspondent relationship with a clearing firm whereby it executes trades and the clearing function is the responsibility of the clearing firm.

(k) The term ''Introducing Broker/Dealer'' or ''introducing broker'' shall mean the member firm that has been identified in the TRACE system as a party to the transaction, but does not execute or clear trades.

(l) The term ''Browse'' shall mean the functions of TRACE that permit a Participant to review (or query) for trades in the system identifying the Participant as a party to the transaction, subject to the specific uses contained in the TRACE Users Guide.

(m) The term ''Gross Dollar Thresholds'' in the risk management application of TRACE shall mean the daily dollar amounts for purchases and sales that a clearing broker establishes in the TRACE system for each correspondent executing broker that may be raised or lowered on an inter-day or intra-day basis. If the value of a correspondent's trades equals or exceeds the gross dollar thresholds, the system will alert the clearing broker.

(n) The term ''Pre-alert'' shall mean the alert notifying the correspondent executing broker and the clearing broker that the correspondent executing broker has equaled or exceeded 70% of the purchase or sale gross dollar limits established by the clearing broker. The Association reserves the right to modify the percentage of the pre-alert as necessary and upon prior notification to the TRACE Participants.

(o) The term ''Single Limit'' shall mean the dollar amount established by the Clearing Broker for a single trade that enables a TRACE clearing firm to review the trade before it is obligated to clear the trade. When a correspondent executing broker negotiates a trade that equals or exceeds the Single Trade Limit, its clearing broker shall have a period of thirty (30) minutes to review and agree or decline to act as principal for clearing that trade. If a Clearing Broker fails to set a single trade limit the TRACE system will automatically set a default single trade limit of $0 for the Correspondent Broker. The Association reserves the right to modify the minimum/maximum dollar amount of the Single Trade Limit as well as the time frame for clearing broker review as necessary and upon prior notification to the TRACE Participants.

(p) For purposes of these rules, the term ''Investment Grade'' shall mean any TRACE-eligible security rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories.

(q) For purposes of these rules, the term ''Non-Investment Grade'' shall mean any TRACE-eligible security that is unrated, non-rated, split-rated (where one rating falls below investment grade), or does not meet the definition of investment grade in paragraph (p), above.

6220. Participation in TRACE

(a) Mandatory Participation for Clearing Agency Members

(1) Pursuant to Article VII, Section 1(a)(vi) and (vii) of the By-Laws, participation in TRACE is mandatory for all brokers/dealers that are members of a clearing agency registered with the Commission pursuant to Section 17A of the Act, and for all brokers that have a clearing arrangement with such a broker. Such participation shall include the reconciliation of all over the counter clearing agency eligible transactions involving TRACE securities.

(2) Participation in TRACE shall be conditioned upon the TRACE Participant's initial and continuing compliance with the following requirements:

(A) execution of, and continuing compliance with, a TRACE Participation Application Agreement and all applicable rules and operating procedures of the Association and the Commission;

(B) membership in, or maintenance of, an effective clearing arrangement with a member of a clearing agency registered pursuant to the Act;

(C) maintenance of the physical security of the equipment located on the premises of the TRACE Participant to prevent unauthorized entry of information into TRACE; and

(D) acceptance and settlement of each trade that TRACE identifies as having been effected by such TRACE Participant, or if settlement is to be made through a clearing member, guarantee the acceptance and settlement of each TRACE identified trade by the clearing member on the regularly scheduled settlement date.

(3) Participation in TRACE as a Clearing Broker shall be conditioned upon the Clearing Broker's initial and continuing compliance with the following requirements:

(A) execution of, and continuing compliance with, a TRACE Participant Application agreement and all applicable rules and operating procedures of the Association and the Commission;

(B) membership in a clearing agency registered pursuant to the Act;

(C) maintenance of the physical security of the equipment located on the premises of the TRACE Clearing Broker to prevent the unauthorized entry of information into TRACE; and

(D) acceptance and settlement of each trade that TRACE identifies as having been effected by itself or any of its correspondents on the regularly scheduled settlement date.

(4) Each TRACE Participant shall be obligated to inform the Association of non-compliance with, or changes to, any other participation requirements set forth above.

(b) Participant Obligations in TRACE

(1) Access to TRACE

Upon execution and receipt by the Association of the TRACE Participant application agreement, a TRACE Participant may commence input and validation of trade information in TRACE eligible securities. TRACE Participants may access the service via a NASD-approved facility during the hours of operation.

(2) Clearing Obligations

If at any time a TRACE Participant fails to maintain a clearing arrangement, it shall be removed from the TRACE system until such time as a clearing arrangement is re-established and notice of such arrangement is provided to the Association. If, however, the Association finds that the TRACE participant's failure to maintain a clearing arrangement is voluntary, the withdrawal will be considered voluntary and unexcused.

(3) Clearing Broker Obligations

(A) Clearing brokers may cease to act as principal for a correspondent executing broker at any time provided that notification has been given to, received and acknowledged by the TRACE Operations Center and affirmative action has been completed by the Center to remove the correspondent broker from TRACE. The clearing broker's obligation to accept and clear trades for its correspondents shall not cease prior to the completion of all the steps detailed in this subparagraph (3)(A).

(B) TRACE Clearing brokers shall establish for each correspondent executing broker daily Gross Dollar Thresholds and may raise or lower the thresholds on an inter-day or intra-day

basis. TRACE clearing brokers will receive a system alert when a correspondent executing broker equals or exceeds its gross dollar thresholds and will also receive a system pre-alert when a correspondent executing broker equals or exceeds 70% of the daily thresholds.

(C) For trades effected by a correspondent executing broker that equal or exceed the correspondent's Single Trade Limit set by the clearing broker in TRACE, clearing brokers have 30 minutes from the time of trade report input to TRACE to review the trade and accept or decline to act as principal to the trade. If the clearing broker does not make an affirmative acceptance or declination of the trade report within 30 minutes, the trade report will be subject to normal TRACE processing and the clearing broker will be obligated to act as principal for the trade.

6230. Transaction Reporting

(a) When and How Transactions are Reported

(1) All NASD members shall, within 1 Hour after trade execution, transmit through TRACE during system hours, or if TRACE is unavailable due to system or transmission failure, by telephone to the TRACE Operations Center, reports of transactions in TRACE Securities executed between 8:00 a.m. and 6:30 p.m. Eastern Time or shall utilize the Browse function in TRACE to accept or decline trades within 30 minutes after execution according to paragraph (b) of this rule. Transactions not reported within 1 hour after execution shall be designated as late unless inadequate time remains prior to system close to allow a timely report. In this situation, the report must be made the next day at system open designated ''as/of.''

(2) Transaction Reporting Between 6:30 p.m. and 8:00 a.m. Eastern Time

(A) Reports of transactions in TRACE Securities executed after 6:30 p.m. Eastern Time and before 12:00 a.m. Eastern Time shall be reported on the next day and be designated ''as/of''. Such trade reports will not be included in daily market aggregates and will be disseminated beginning at 8:00 a.m. Eastern Time on the day of receipt.

(B) Reports of transactions in TRACE Securities executed after 12:00 a.m. Eastern Time and before 8:00 a.m. Eastern time shall be reported that same day beginning at 8:00 a.m. Eastern Time within the maximum time frame mandated. Such trade reports will be included in that day's market aggregates and disseminated upon receipt.

A pattern or practice of late reporting without exceptional circumstances may be considered inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of Rule 2110.

(b) Which Party Reports Transaction

Both parties executing a transaction shall, subject to the input requirements below, either input trade reports into the TRACE system or utilize the Browse feature to accept or decline a trade within the applicable time frames as specified in paragraph (a)(1) of this Rule. Trade data input obligations are as follows:

(1) in transactions between two TRACE Participants, the member representing the sell side shall be required to submit a trade report to TRACE;

(2) in transactions between a NASD member and a non-member including a customer, the NASD member shall be required to submit a trade report to TRACE.

(c) Trade Information To Be Reported

Each TRACE trade report shall contain the following information:

(1) CUSIP number or NASD symbol;

(2) Number of bonds as required by paragraph (d) below;

(3) Price of the transaction as required by paragraph (d) below;

(4) A symbol indicating whether the transaction is a buy, sell or cross;

(5) Date of Trade Execution (as/of trades only);

(6) Contra-party's identifier;

(7) Capacity—Principal or Agent (with riskless principal reported as principal) as required by paragraph (d) below;

(8) Time of trade execution;

(9) Reporting side executing broker as ''give-up'' (if any);

(10) Contra side introducing broker in case of ''give-up'' trade;

(11) Stated commission;

(12) Such trade modifiers as required by either: (a) the TRACE System Rules; and/or (b) the TRACE Users Guide.

(d) Procedures for Reporting Price, Capacity, Volume

(1) For agency and principal transactions, report the price including the mark-up, mark-down or commission (commission entered separately). Do not include accrued interest.

(2) For agency and principal transactions, report the actual number of bonds traded. Baby bonds (those with a face value of less than $1,000) should be reported expressed as a decimal.

(3) In-house cross transactions should be reported as follows: Agency cross—report once as an agency trade; Principal cross—report twice, once as an individual principal buy and once as an individual principal sell.

(e) Transactions Not Required To Be Reported

The following types of transactions shall not be reported:

(1) Transactions which are part of a primary distribution by an issuer;

(2) Transactions made in reliance on Section 4(2) of the Securities Act of 1933;

(3) Transactions in listed securities that are both executed on, and reported to, a national securities exchange;

(4) Transactions where the buyer and the seller have agreed to trade at a price substantially unrelated to the current market for the TRACE security (e.g., to allow the seller to make a gift).

6240. TRACE Processing

Locked-in trades may be determined in the TRACE system by matching the trade information submitted by the reporting parties through one of the following methods:

(a) Trade by Trade Match

Both parties to the trade submit transaction data and the TRACE system performs an on-line match;

(b) Trade Acceptance

The TRACE reporting party enters its version of the trade into the system and the TRACE non-reporting contra party reviews the trade report and accepts or declines the trade. An acceptance results in a locked-in trade; a declined trade report is purged from the TRACE system at the end of trade data processing;

(c) Post Trade Date Processing

T+N entries may be submitted during system hours each business day. At the end of daily matching, all declined trade entries will be purged from the TRACE system. TRACE will not purge any open trade (i.e., unmatched or unaccepted) at the end of its entry day, but will carry-over such trades to the next business day for continued comparison and reconciliation. TRACE will automatically lock in and submit to NSCC as such any carried-over T to T+21 (calendar day) trade if its remains open as of 2:30 p.m. on the business day. TRACE will not automatically lock in T+22 (calendar day) or older open ''as-of'' trades that were carried over from the previous business day; these will be purged by TRACE at the end of the carry-over day if they remain open. Members may re-submit these T+22 or older ''as-of'' trades as a comparison-only entry into TRACE on the next business day for continued comparison and reconciliation for up to one calendar year.

6250. TRACE Risk Management Functions

The TRACE system will provide the following risk management capabilities to clearing brokers:

(a) Trade File Scan

Clearing brokers will be able to scan the trading activities of their correspondent executing brokers through the TRACE system.

(b) Gross Dollar Threshold

Clearing brokers will be able to establish, on an inter-day or intra-day basis, gross dollar thresholds for purchases and sales for their correspondent executing brokers, and the TRACE system will alert the clearing broker and its correspondent if the correspondent's trading activity equals or exceeds either threshold.

(c) Gross Dollar Threshold Per-Alert

In addition to the gross dollar threshold alert, the TRACE system will also alert the clearing broker and its correspondent when the correspondent's trading activity equals or exceeds 70% of either gross dollar threshold.

(d) On-line Review

Clearing brokers that access TRACE through a computer interface will be able to receive intra-day activity of their correspondents as it is reported.

(e) Single Trade Limit

Clearing brokers will have 30 minutes from trade report input to TRACE to review any single trade executed by their correspondent executing brokers that equals or exceeds an amount set by the clearing broker for that correspondent in order to decide to act as principal. If, however, the clearing broker does not affirmatively accept or decline the trade, at the end of 30 minutes, the system will subject the trade to normal TRACE processing and the clearing broker will be obligated to act as principal to clear the trade.

(f) Super Cap

The Super Cap will be set at an amount to be determined by the Clearing Broker, but in no event less than the gross dollar threshold. When a correspondent's Super Cap is reached, notice will be furnished to TRACE participants, and no trade in excess of an amount set by the clearing broker for that correspondent will be accepted for TRACE processing unless the clearing broker accepts the trade within 30 minutes of execution.

6260. Obligation to Honor Trades

If a TRACE Participant is reported by TRACE as a party to a trade that has been treated as locked-in and sent to NSCC, notwithstanding any other agreement to the contrary, that party shall be obligated to act as a principal to the trade and shall honor such trade on the scheduled settlement date.

6261. Compliance with TRACE Rules and Trade Reporting Requirements

Failure of an NASD member, or person associated with a member, to comply with any of the rules or requirements of TRACE, or failure of a member or associated person to comply with any of the transaction reporting requirements for TRACE-Eligible Securities may be considered conduct inconsistent with high standards of commercial honor and just and equitable principals of trade, in violation of Rule 2110.

6270. Audit Trail Requirements

The data elements specified in Rule 6220(c) are critical to the Association's compilation of a transaction audit trail for regulatory purposes. As such, all member firms utilizing the TRACE Service have an ongoing obligation to input 6220(c) information accurately and completely.

6280. Termination of TRACE Service

The Association may, upon notice, terminate TRACE service to a Participant in the event that a TRACE Participant fails to abide by any of the rules or operating procedures of the TRACE service or the Association, or fails to honor contractual agreements entered into with the Association or its subsidiaries, or fails to pay promptly for services rendered by the TRACE Service.

6290. Dissemination of Corporate Bond Trade Information

Trade reports entered into TRACE will be collected, processed and disseminated on a real-time basis between 8:00 a.m. and 6:30 p.m. Eastern Time. All trade reports submitted to TRACE prior to 5:15 will be included in the calculation of market aggregates and last sale except 1). trades reported on an ''as of'' basis, 2) ''when issued'' trades executed on a yield basis, or 3) trades in baby bonds with a par value of less than $1000.

6291. Lead Underwriter Information Obligation

In order to facilitate trade reporting of secondary transactions in TRACE securities, the lead underwriter of any newly-issued TRACE security shall provide to the TRACE Operations Center the CUSIP number of any debt issue no later than on the effective date of the offering.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Purposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD 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 Purposed Rule Change

The NASD is proposing to establish a mandatory trade reporting, dissemination and comparison facility for corporate bonds. Under the proposal, beginning in the spring of the year 2000, NASD members would be obligated, for regulatory purposes, to report trades to Nasdaq's Trade Reporting And Comparison Entry Service (''TRACE℠'') all secondary transactions in specified U.S. corporate bonds within 1 hour of trade execution. After an initial 6 month period for an information integrity review, Nasdaq will in turn disseminate trade reports to the public through market data vendors. Under the proposal, the initial 1 hour maximum trade reporting time frame will be subsequently reduced to 15 minutes six months after corporate bond trade reporting begins. Simultaneously with the effectiveness of the new rules governing corporate bond trade reporting, the NASD will also eliminate Nasdaq's FIPS system and its related rules.

1. *Background*

Early in 1998, the SEC began reviewing the debt markets in the United States with a particular emphasis on price transparency. This review concluded that in the area of corporate bonds, transparency was lacking and needed improvement. Subsequently, the Chairman of the SEC again highlighted the problem of the lack of transparency in the corporate bond market and called on the NASD to take the following actions:

First, adopt rules requiring dealers to report all transactions in U.S. corporate bonds and preferred stocks to the NASD and to develop systems to receive and distribute transaction prices on an immediate basis.

Second, create a database of transactions in corporate bonds and preferred stocks to enable regulators to take a proactive role in supervising the corporate debt market.

Third, create a surveillance program, in conjunction with the development of a database, to better detect fraud and foster investor confidence in the fairness of the corporate debt market.

In response to this mandate, the NASD is proposing a phased-in approach to corporate bond trade reporting, starting first with high yield and convertible debt instruments followed by all other eligible U.S. corporate bonds. Initially, the maximum time period for timely reporting after trade execution will be 1 hour which will subsequently be compressed to 15 minutes. All corporate bond trade reports received, with the exception of Rule 144A restricted issues, will then be immediately disseminated to the investing public through market data vendors. The NASD expects to initiate mandatory corporate bond trade reporting and comparison for all NASD members in two phases. Currently, the target start date for mandatory reporting is the spring of 2000, with TRACE comparison service commencing in the summer of that same year, after the securities industry has successfully met the Y2K challenge.[2] The NASD's corporate bond trading and dissemination initiative is to be accomplished in the following phases:

2. Corporate Bond Trade Reporting Implementation—Phase I

Under the NASD's proposal, mandatory trade reporting for high yield [3] and convertible corporate bonds will commence in the spring of the year 2000, after the NASD has assessed industry readiness. For the first month of reporting, these securities will be subject to a maximum 1 hour trade reporting window. At the end of the first month, an alphabetical phase-in of remaining reportable corporate bonds, lasting two months, will then begin.[4] These corporate bonds will also be subject to a 1 hour maximum trade reporting window. While eligible corporate bonds are being incorporated into the mandatory trade reporting system, NASD will once again undertake a review of industry technological and operational readiness and compliance with the new corporate bond trade reporting rules. With the exception of reports in FIPS 50 bonds, (See Section 9 below), during Phase I no trade reports will be disseminated.

3. Corporate Bond Trade Reporting Implementation—Phase II

At the end of the sixth month, the 1 hour maximum trade reporting window will be shortened to 15 minutes, and immediate dissemination of trade reports will begin (with the exception of Rule 144A restricted issues). During Phase II, the NASD will continue to evaluate the industry's compliance with the new rules, and examine whether a further reduction in the post-trade reporting window should be considered. The NASD will also assess the impact upon liquidity and seek industry input regarding any potential or observed negative impacts on market liquidity attributable to the reduced post-trade time reporting window and/or immediate dissemination of bond trade data.

4. The Trade Reporting And Comparison Entry Service

Trade reports submitted by NASD firms will be entered into Nadaq's TRACE℠ Service. TRACE, which is based in part on technology derived from Nasdaq's Automated Confirmation Transaction Service (''Act''), is a multi-functional service designated to facilitate the reporting and comparison of fixed-income trades. The system allows reporting firms to enter executed trades in corporate bonds and have these trades available for trade reporting, matching, and clearing. Contra parties to reported corporate bond trades may accept trade entries made by the reporting party via an acceptance function, or by entering its version of the trade and allowing TRACE to match it. Trades submitted through TRACE are forwarded to Nasdaq for reporting purposes and can also be forwarded to the National Securities Clearing Corporation (''NSCC'') for clearance and settlement as ''locked-in'' trades. NASD believes that TRACE will provide significant benefits to corporate bond market participants by enabling faster and more efficient trade reconciliation and confirmation, increased efficiency in back-office operations, and a real-time trade entry status check for every TRACE transaction. These features will also facilitate the industry's transition toward T+1 trade settlement.

TRACE is also programmed to provide important risk management functions to firms that clear corporate bond transactions for other firms. For example, TRACE will allow clearing firms to monitor buy/sell trading activity of their introducing firms, establish trading thresholds, allow/inhibit large trades, add/delete clearing relationships and access a real-time data base of correspondent trading activity. Like TRACE's trade reporting and comparison features, TRACE's risk management capabilities are designed to increase corporate bond market participant confidence through the provision of superior, real-time market information.

5. Corporate Bonds Subject to Mandatory Trade Reporting

The NASD is proposing that trade reporting be mandated for the following corporate debt securities: (1) U.S. dollar denominated debt securities issued by U.S. and private foreign corporations that are registered with the SEC and eligible for book-entry services at The Depository Trust Company (''DTC''); (2) Rule 144A U.S. high-yield debt securities designated as ''PORTAL Debt Securities'' in Nasdaq's PORTAL Market;[5] and (3) rule 144A investment grade debt securities eligible for book-entry services at DTC. For clarification, the securities described above would include: (a) investment grade corporate debt (including rule 144A/DTC eligible); (b) high-yield and unrated debt issued by U.S. companies and foreign private companies (including PORTAL-designated debt); (c) medium-term notes; (d) convertible bonds; and (e) capital trust securities, floating rate notes, and global bonds issued by U.S. companies and foreign private companies. Reportable bonds would *not* include: government securities, sovereign or development bank debt; mortgage or asset backed securities; collateralized mortgage obligations (''CMOs''); or money market instruments.

6. Reporting Obligations

Under the rules proposed here, trade reports in eligible corporate bond transactions between NASD members will be submitted by the NASD member on the sell side of the transaction. If the transaction involves an NASD member and the other party is a customer or non-member broker/dealer, the NASD member will be obligated to report regardless of whether the NASD

[2] Fees for this initiative will be the subject of a separate rule filing at a later date.

[3] Included in this category are the approximately 2900 high yield corporate bonds already being reported through Nasdaq's Fixed Income Pricing System (''FIPS''). As explained in Section 9 of this filing, the NASD intends to fold all FIPS securities into the larger corporate bond trade reporting and dissemination facility proposed here.

[4] While NASD is initially proposing an alphabetical phase-in, the Association will continue to consult with bond market participants with a view towards determining whether a different method of phasing-in eligible bonds (*e.g.*, by CUSIP number) is more appropriate. Regardless of the phase in method selected, the three month time period for completing the initial phase-in of all TRACE bonds will remain the same.

[5] *See* SR–NASD–99–66.

member represents the buy or sell side of the transaction. NASD is proposing that the following types of trades be exempted from its mandatory corporate bond trade reporting rules: (1) Transactions that are part of a primary distribution by the issuer; (2) transactions made in reliance on Section 4(2) of the Securities Act of 1933;[6] (3) transactions in listed debt securities that are both executed on, and reported to, a national securities exchange; or (4) transactions in which the buyer and seller have agreed to trade at a price substantially unrelated to the current market for the debt security (*e.g.* to enable the seller to make a gift).

7. Elements of the Trade Report

The NASD is recommending that corporate bond trade reports submitted should include the following: (1) Buy/Sell/Cross; (2) CUSIP number or NASD symbol; (3) Quantity; (4) Price—inclusive of mark-up, mark-down, and stated commission (for agency trades stated commission will be reported in separate field);[7] (5) Contra-party's NASD symbol or ''C'' for customer; (6) Date and time of Trade Execution; and (7) Capacity—Principal (with riskless principal reported as principal), Agent or Agency Cross. In-house crosses should be reported as follows: Agency crosses will be reported one time as an agency cross, and principal crosses will be reported twice as individual buy and sell principal trades. Baby Bonds (a trade quantity of less than one bond/$1,000 face amount) trade reports will be based on the actual percentage of the bond traded and reported in decimal form (*e.g.,* a face value of $414 would be reported as .414). Given the potential for these trades to distort both market aggregates as well as the representative market in an individual bond, these trade reports will not be disseminated. Mixed lot trades, consisting of a denomination of $1,000 par or multiples thereof, plus a baby bond, will be reported as the actual number of bonds traded (*e.g.,* 25,414) but will be disseminated as the lesser whole amount (*e.g.,* 25M) after being rounded down by TRACE. Trade reports in ''When-Issued'' bonds would be reported on a yield basis, unless contracted on the dollar, and be specially designated when disseminated and not included in the calculation of daily market aggregate values.

8. Determining Time of Execution for Trade Reporting Purposes

NASD is proposing that the time of execution entry on corporate bond trade reports be established as the time when all of the terms of the trade are agreed upon sufficient to calculate the dollar price of the trade. NASD believes that this standard is appropriate and consistent with the reference to time of execution if SEC Rule 17a–3(a) (6) and (7), which governs memorandums of purchase or sale for bond transactions.[8]

9. Fixed Income Pricing System

The rules of Nasdaq's FIPS already mandate that certain high yield bonds, known as the ''FIPS 50,'' be reported to the FIPS system within 5 minutes of trade execution, with the remainder of FIPS-reportable corporate high yield bonds being subject to a 5:00 p.m. end-of-day reporting deadline. In addition, Nasdaq also currently imposes a one-sided quotation obligation on NASD members for each FIPS bond in which they act as a dealer. In order to standardize corporate bond trade reporting obligations and minimize industry technology burdens, NASD is proposing to eliminate the separate FIPS system, and its related rules and costs, in conjunction with the expansion of corporate bond trade reporting proposed in this filing. This will be accomplished as follows: First, FIPS quotation requirements will cease upon commencement of high-yield corporate bond trade reporting mandated in this filing. At the same time, the current 5 minute trade reporting window for FIPS 50 bonds will be expanded to 1 hour and Nasdaq's current hourly dissemination of the high, low, and volume of the FIPS 50 bonds will be shortened to immediate dissemination of actual FIPS 50 trade reports when received by Nasdaq. At the inception of mandatory high-yield corporate bond trade reporting proposed in this filing, all former FIPS securities, including those now reported at the end of the day, will become governed by the same 1 hour/15 minute reporting and immediate dissemination standards applicable to all TRACE-eligible corporate bonds. In addition to establishing uniformity and an equality of trade reporting burdens, NASD believes that immediate, upon-receipt dissemination of FIPS 50 trade report will provide the fastest opportunity to begin evaluation of the market impact of corporate bond trade reporting and dissemination.

10. Methods of Trade Reporting

NASD is actively conferring with various market participants including market data vendors to provide a myriad of options for market participants to report corporate bond trades. It is the NASD's goal to make available trade reporting options appropriate for every type of NASD member firm. Specifically, the TRACE system will be developed in a manner that will make it possible for vendors and service bureaus to provide trade report data on behalf of their clients, via a Nasdaq Computer to Computer Interface (''CTCI''). In addition, a browser-based corporate bond software application is being developed which will allow members to manually enter trade report information via the Internet or other private networks. Currently, the target start date for mandatory reporting is the spring of 2000, with TRACE comparison service commencing in the summer of that same year.

11. Hours of System Operation

NASD's corporate bond trade reporting and dissemination system will operate from 8:00 a.m. to 6:30 p.m. Eastern Time. Trades executed after 6:30 p.m. and before 8 a.m. the next day, will be reported that next morning beginning at 8 a.m. in conformity with maximum trade reporting time mandates (*e.g.,* initially 1 hour subsequently to be reduced to 15 minutes). Trades executed after system close and before 12:00 a.m. midnight will be reported on an ''as of'' basis and will not be included in market aggregates but will be disseminated upon receipt beginning at 8:00 a.m. the next trading day. Trades executed between 12:01 a.m. and system open (8:00 a.m.) that same day will be reported starting at system open, disseminated upon receipt, and will be included in the calculation of daily aggregates.

12. Corporate Bond Market Surveillance

In addition to the establishment of a corporate bond transaction reporting and dissemination facility, NASD will also, in accordance with the Commission mandate, develop a database of transactions in corporate bonds to enable NASD Regulation and Nasdaq MarketWatch regulators to take a proactive role in supervising the

[6] *See* SR–NASD–99–66 for fuller discussion regarding the application of exemptions (1) and (2) as they relate to Portal securities and Rule 144A investment grade debt.

[7] In order to achieve both trade reporting and comparison of TRACE transactions, agency trades executed with a stated commission should have that commission reported in a separate data entry field provided for this purpose. The dollar price of the transaction should be reported without including the commission. TRACE will combine these two fields for dissemination of price and yield to the public, and use the price field for comparison purposes.

[8] For determining the time of execution for transactions involving PORTAL debt and Rule 144A investment grade rated debt securities see SR–NASD–99–66.

corporate debt market and to better detect fraud and foster investor confidence in the fairness of that market. As the Commission is aware, both NASD Regulation and Nasdaq currently have in place surveillance and examination programs covering the over-the-counter corporate debt market, NASD Regulation will continue to investigate complaints concerning over-the-counter corporate bond transactions and will, based on the database of TRACE transactions reports submitted, develop automated monitoring and oversight capabilities for the corporate debt market to ensure the highest levels of investor protection and market integrity.

13. Dissemination of Trade Report Information to Vendors

NASD is proposing to immediately disseminate the following trade report information to market data vendors for public use: (1) NASD Symbol; (2) CUSIP; (3) Date/Time of Execution of Trade; (4) Price; (5) Yield; and (6) Actual Quantity of Bonds Traded (except high yield and unrated (NR/NA) trades over a 1 million dollar par value will be disseminated as ''1MM+'' and investment-grade transactions over a 5 million dollar par value will be disseminated as ''5MM+'').[9] NASD believes a two-tiered approach of a 1MM+ identifier for high-yield transactions is appropriate given the lack of effective hedges in the high-yield market and that market's potential sensitivity to a lack of liquidity, while a 5MM+ identifier for investment-grade trades draws an appropriate and reasonable balance between the desire for increased transparency and any potential dangers to market function in the more liquid investment-grade debt market.[10] TRACE information will be distributed to vendors in a fashion and format similar to Nasdaq's Trade Dissemination Service (''NTDS'') which is used to disseminate last sale transaction reports in Nasdaq securities.

Based on the above, Nasdaq believes that the proposed rule changes are consistent with the provisions of Section 15A(b)(6) of the Act in that the proposals are designed to prevent manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in the regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 120 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 self-regulatory organization 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 including whether the proposed rule change is consistent with the Act. Commenters are specifically encouraged to address the following issues: What information should be reported? How immediate should reporting be? What systems changes are required to support trade reporting to a central facility? Are there ways to improve the proposed trade reporting system that would improve transparency and reduce the cost of implementation? Are the proposed methods of reporting price (*i.e.,* inclusive of markups, markdowns, and commissions) appropriate in light of broker-dealer confirmation disclosure obligations for corporate debt transactions under Rule 10b–10? Are the proposed facilities sufficient for trade reporting and trade comparison? Is the phase-in schedule appropriate? Is the method of trade report dissemination appropriate? Should Rule 144A transactions be treated differently? Is the timetable for operation of the TRACE system to begin in Spring 2000 appropriate? Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions would refer to File No. SR–NASD–99–65 and should be submitted by February 8, 2000.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Jonathan G. Katz,

Secretary.

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[9] NASD will not disseminate trade report information for transactions involving Rule 144A-eligible, privately-placed debt securities, including PORTAL-designated and investment grade DTC-eligible debt. Trade reports in stand-alone baby bonds will also not be disseminated (See Section 7).

[10] TRACE will disseminate transaction reports received during system hours. However, only TRACE transactions executed and reported to TRACE prior to 5:15 p.m. Eastern Time will be used to calculate that day's high, low, last sale, and volume for individual TRACE securities. Transaction reports submitted to TRACE after 5:15 p.m. Eastern time will be disseminated with an ''.A'' to identify them as transactions not affecting high, low, last sale, and volume market aggregates.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42194; File No. SR–NYSE–99–29]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving the Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 1, 3, and 4 to the Proposed Rule Change for the NYSE's Continued Listing Standards

December 1, 1999.

I. Introduction

On June 22, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 under the Act,[2] a proposed rule change to amend the NYSE's continued listing standards.

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

On July 26, 1999, the Commission approved on an accelerated basis the proposed changes as a pilot program (''Pilot'') scheduled to expire on November 1, 1999.[3]

Notice of the proposal was published in the **Federal Register** on August 2, 1999.[4] The Commission received three comment letters on the proposal.[5] On October 26, 1999, the NYSE submitted Amendment No. 1, proposing to revise the continued listing criteria applicable to closed-end investment companies registered under the Investment Company Act of 1940 (''Funds'').[6] On November 1, 1999, the NYSE submitted Amendment No. 2, proposing to extend the Pilot until December 1, 1999.[7] The Commission approved Amendment No. 2 on an accelerated basis on November 1, 1999.[8] On November 18, 1999, the NYSE submitted Amendment No. 3, proposing to extend the period during which an issuer is allowed to reach the proposed minimum stock price for companies whose average closing price of their securities fell below a dollar for 30 consecutive trading days.[9] On November 26, 1999, the NYSE submitted Amendment No. 4, making several technical changes to the proposed rule text.[10] This notice and order approves the proposed rule change, as amended, and solicits comments from interested persons on Amendment Nos. 1, 3, and 4.

II. Description of the Proposal

The proposal would modify several of the NYSE's existing continued listing criteria, codify certain Exchange policies regarding its continued listing criteria, replace certain of the current criteria with new continued listing criteria, and create subsections in the continued listing section.[11]

The Exchange's current numerical continued listing criteria include requirements regarding size, earnings, and share distributions. The proposal would replace the Exchange's current numerical continued listing criteria with a financial standard subjecting a company to suspension and delisting if: (i) Its global market capitalization and its stockholders' equity each fall below $50 million, or (ii) Its average global market capitalization is below $15 million over 30 consecutive trading days. These two standards would apply to every company, whether domestic or non-U.S., and whether listed under the ''adjusted earnings'' or ''cash flow'' standard.[12]

Second, the proposal would implement a new continued listing standard for those companies that quality under the ''global market capitalization'' standard.[13] Such a company would be subject to delisting if: (i) Its global market capitalization is below $500 million and its total revenues are below $50 million over the past 12 months.[14] (ii) Its average global market capitalization is below $100 million over 30 consecutive trading days. In the event that such a company can qualify under one of the other original listing criteria, however, it would not be subject to delisting.

With respect to the $50 million market capitalization and $50 million stockholders' equity standard, a company that falls below this continued listing criteria would be permitted 18 months to re-establish both its market capitalization and its stockholders' equity to be considered in conformity with continued listing standards.[15] With respect to the $15 million minimum for average global market capitalization, upon notification, the company would be required to restore its market capitalization to at least $15 million within 18 months.

Third, the proposal would adopt a price criteria applicable to all issuers. Specifically, the proposal would add a new minimum continued listing standard that would be triggered when a security's average closing price over a 30-trading-day period falls below $1.00.[16] With respect to the closing price minimum of $1.00, once notified, a company would have the later of its next annual meeting date or six months to return its average stock price to above $1.00. To alert issuers, the Exchange intends to notify a company whose average price falls below $5.00 over a 30-trading-day period of the consequences of a further decline in its share price to below $1.00. Each company so identified and notified would then be tracked by the Exchange and its price monitored. If this is the only criteria that causes a company to fall below the Exchange's continued listing standards under Para. 802.01 of the *Listing Manual,* the Exchange generally would not commence suspension and delisting procedures for the later of the company's next annual meeting date or six months. However, the company must notify the Exchange within 10 business days of receipt of its notification of its intent to cure this deficiency or be subject to immediate suspension and delisting. In the event that, at the expiration of the cure period, a $1.00 share price is not attained, the Exchange will commence suspension and delisting procedures.

Fourth, under the proposal, a Fund would be subject to immediate suspension and delisting procedures if the average market capitalization over 30 consecutive trading days is below $15 million or the Fund ceases to maintain its closed-end status.[17] The Exchange would notify the fund if the Average market capitalization falls below $25,000,000 and advise the Fund of the listing standard. Funds would no longer be subject to the procedures of having to submit plans to the Exchange to re-establish their compliance with the continued listing criteria. Funds would

[3] *See* Securities Exchange Act Release No. 41648 (July 26, 1999), 64 FR 41986.

[4] *Id.*

[5] *See* Letters to Jonathan G. Katz, Secretary, SEC, from Frank G. Zarb, President and CEO, NASD, dated July 19, 1999 (''NASD''); Marcia L. MacHarg, Counsel for the Independent Directors, Jakarta, dated August 20, 1999 (''Jakarta''); and Ari Burstein, Assistant Counsel, ICI, dated August 23, 1999 (''ICI'').

[6] *See* Letter to Richard C. Strasser, Assistant Director, Division of Market Regulation (''Division''), SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated October 25, 1999 (''Amendment No. 1'').

[7] *See* Letter to Jonathan Katz, Secretary, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated November 1, 1999 (''Amendment No. 2'').

[8] *See* Securities Exchange Act Release No. 42087, 64 FR 60872 (November 8, 1999).

[9] *See* Letter to Richard C. Strasser, Assistant Director, Division, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated November 17, 1999 (''Amendment No. 3'').

[10] *See* Letter to Richard C. Strasser, Assistant Director, Division, SEC, from James E. Buck, Senior Vice President and Secretary, NYSE, dated November 24, 1999 (''Amendment No. 4'').

[11] On July 26, 1999, the date the Commission granted accelerated approval to the Pilot, the 30-day clock for computing the various averages began and all listed companies became subject to these proposed continued listing standards.

[12] In calculating the market capitalization of non-U.S. issuers for continued listing standards the NYSE will determine the total number of outstanding shares from the latest SEC filing and multiply that number by the closing price in the issuer's home market. The NYSE explained that this number would cover all ordinary shares of the issuer, which would include the shares held in the home market (and elsewhere outside of the U.S.) as well as those shares held by the depositary bank that underlie the American Depositary Receipts (''ADRs''). Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Terri Evans, Special Counsel, and Heather Traeger, Attorney, Division, SEC, on November 26, 1999.

[13] *See* Securities Exchange Act Release No. 41834 (September 3, 1999), 64 FR 50129 (September 15, 1999).

[14] The NYSE's review would be based on a company's unaudited Quarterly Reports. Consequently, if a company were to restate its financials, the NYSE would re-evaluate the company's eligibility for continued listing on the Exchange. Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Deborah Flynn, Special Counsel, Division, SEC, on July 12, 1999.

[15] *See* Paras. 802.02 and 802.03 of the *Listing Manual.*

[16] *See* Amendment No. 3, *supra* note 9.

[17] *See* Amendment No. 1, *supra* note 6.

continue to be subject to the minimum market price criteria of $1.00 per share.

Fifth, the proposal would also codify a specific delisting criteria for real estate investment trusts (''REITs'') with less than three years of operating history of $30 million in both market capitalization and stockholders' equity. The proposal would also incorporate into the REIT section the minimum standard of $15 million for market capitalization. The proposal would create a new policy that a REIT is subject to delisting immediately upon the loss of its REIT status if the resultant entity is unable to qualify as an original listing as a corporation (or other operating company) at that time. Additionally, upon attainment of three years of operating history, the REIT would be subject to the numerical criteria generally applicable to capital or common stock proposed above.

Finally, the proposal would clarify and codify the Exchange's policy whereby a company that files or announces an intent to file for reorganization under the bankruptcy laws is not subject to automatic delisting. In such a situation, the Exchange could exercise discretion to continue the listing and trading of the securities of the company. Once identified, the Exchange monitors the company's performance against the remaining continued listing standards, the compliance with which may be determined on the basis of price indications, as opposed to a 30-trading-day average. If a company that is below any continued listing standard enumerated in proposed Para. 802.01B of the *Listing Manual* (''Numerical Criteria for Capital or Common Stock'') files or announces an intent to file for such relief (or if a company having filed for bankruptcy becomes below another continued listing standard), it would be subject to immediate suspension and delisting. Notwithstanding the preceding, the Exchange may at any time exercise its discretion to proceed with suspension and delisting procedures based solely upon a bankruptcy filing.

The proposal would create an additional delisting criteria to address non-numerical indications in financial statements of unsatisfactory financial performance. These additional criteria could lead to the delisting of a company that may otherwise continue to meet the specifically-enumerated numerical criteria section 802.01 of the *Listing Manual.* For example, the Exchange views the disclosure contained in the independent account's opinion that the company receives on its financial statements as providing one such indication. Independent public account's opinions that might indicate unsatisfactory financial performance include: (i) A qualified opinion, (ii) An adverse opinion, (iii) A disclaimer opinion, or (iv) An unqualified opinion with a ''going concern'' emphasis.

In addition, if a company that emerges from being below continued listing standards again falls below continued listing standards within 12 months, the Exchange will scrutinize the original methods of financial recovery taken by the company. In this regard, the Exchange would also examine the relationship of the two incidents of falling below continued listing standards. Exchange staff would then take the requisite action, which may include truncating the procedures described in Paras. 802.02 and 802.03 of the *Listing Manual,* or immediately initiating suspension and delisting procedures.

The proposal would codify and provide more specificity to the Exchange's current policy of requesting companies that trigger one or more of the factors outlined in ''Other Criteria'' to comply with the procedures outlined in Paras. 802.02 and 802.03 of the *Listing Manual* when it determines it is appropriate to do so. For instance, the Exchange has historically requested additional information from companies it has identified as having a significant reduction in operating assets. Such information has often taken the form of a ''plan'' as defined in Paras. 802.02 and 802.03 of the *Listing Manual.*

III. Summary of Comments and NYSE's Response

The Commission received three comment letters on the proposal.[18] The NASD opposed the proposed as being anti-competitive, while Jakarta and the ICI opposed portions of the proposed continued listing standards for Funds.

In its letter, the NASD opposed the adoption of new listing criteria that would increase the number of large Nasdaq issuers eligible for listing on the NYSE, while the NYSE retains rules restricting companies from voluntarily delisting from the NYSE and restricting off-board trading activity by NYSE members. The NASD contends that the proposal, in conjunction with NYSE Rules 390 and 500, provides the NYSE with an affair competitive advantage. Therefore, the NASD contends that the NYSE should not be allowed to adopt any rule change that increases the Exchange's ability to obtain or retain issuer listings while NYSE Rules 390 and 500 remain in effect.

In response, the Exchange argues that the NASD's argument is unrelated to the current proposal and further, that the proposed rule change to the continued listing standards is a change, not a reduction, and is roughly neutral in terms of the number of companies affected.[19] The NYSE also reiterated that there are companies that are below the old standards but compliant under the new, and there are companies that were in good standing previously that are below the new standards.[20]

In its letter, Jakarta suggested that the proposed minimum market capitalization and assets requirements for continued listing of Funds be reduced significantly below $50 million. Emphasizing the peculiarities of a Fund, Jakarta queried why a Fund that meets the initial listing requirement (which is now $60 million) should be penalized through delisting solely as a result of a decline in assets or market value due to economic and political events beyond the control of the Fund's manager. Jakarta also questioned the extent of the proposed 400% increase in the continued listing market capitalization and asset requirements from $12 million to $50 million for Funds. Jakarta suggested that existing Funds be accorded some form of grandfather relief and suggested that any Fund meeting the continued listing criteria in effect prior to the Pilot be permitted to rely on those criteria to maintain its listing on the NYSE.

ICI also focused on the nature of Funds noting that a Fund's market capitalization and net assets will fluctuate significantly from year-to-year, or even from month-to-month, depending on market conditions. Thus, ICI reiterated Jakarta's position that this volatility in the total market capitalization and net assets of a Fund is beyond the Fund's control and is unrelated to its suitability for listing, particularly if a Fund meets the initial asset test of $60 million and continues to meet the requirements as to trading volume and number of shareholders. Additionally, ICI explained that it is more difficult for Funds to raise additional cash than it is for operating companies because of restrictions under the Investment Company Act of 1940. ICI also suggested that the 12 and 18 month periods are too short and too rigid because they condition a Fund's continued listing on short-term improvements. ICI also expressed concern that the Commission had

[18] *See supra* note 5.

[19] *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Jonathan G. Katz, SEC, dated September 2, 1999.

[20] *Id.*

granted accelerated approval to the Pilot program, which immediately subjects all Funds to the new continued listing standards, without first providing interested parties the opportunity to comment.

In response to these letters and numerous oral comments from a number of Funds, the Exchange submitted Amendment No. 1.[21] As previously described, Amendment No. 1 proposes to modify its initial proposal to subject a Fund to immediate suspension and delisting procedures if the average market capitalization over 30 consecutive trading days is below $15,000,000 or the Fund ceases to maintain its closed-end status.

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[22] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[23] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public.

The development and enforcement of adequate standards governing the initial and continued listing of securities is an activity of critical importance to financial markets and the investing public. Listing standards serve as a means for a marketplace to screen issuers and to provide listed status only to bona fide companies with sufficient float, investor base, and trading interest to maintain fair and orderly markets. Once an issuer has been approved for initial listing, the maintenance criteria allow a marketplace to monitor the status of that issuer.

The proposal would replace the current financial continued listing criteria with standards subjecting a firm to delisting if its global market capitalization and its stockholders' equity each fell below $50 million or its average global market capitalization is below $15 million over 30 consecutive trading days. Additionally, companies that qualify for initial listing under the global market capitalization standards will be subject to delisting if their total global market capitalization is below $500 million and their total revenues are below $50 million over the past 12 months, or their average global market capitalization is below $100 million over 30 consecutive trading days. The Commission finds that the proposed rule change is a reasonable action by the NYSE in light of the globalization of today's market. The Commission believes that a company's size and the amount of stockholders' equity in a company are not inappropriate measures of a company's suitability for listing on an exchange. Further, the Commission believes that the continued listing criteria for companies listing under the global market capitalization standard is reasonable and consistent with the alternative original listing standard previously approved by the Commission.[24]

The proposal would also adopt a new minimum continued listing standard applicable to all issuers. The standard would be triggered when a security's average closing price over a 30-day-trading period falls below $1.00, and companies would have the later of their next annual meeting date or six months to cure the deficiency. The Commission believes that while the maintenance standard requiring the $1.00 closing price minimum will have an impact on some issuers, the potential impact is not unreasonable. In maintaining its market, the NYSE has determined to remove extremely low-priced stocks. The Commission finds that the $1.00 closing price minimum is a reasonable measure for the NYSE to maintain its quality control standards for issuers quoted on the Exchange. In establishing criteria to uphold the quality of the market, it is apropriate for the NYSE to set a minimum for the stock price that is acceptable in conjunction with the other standards for listing and maintenance.

The proposal also codifies continued listing criteria for Funds. The proposal, as amended, subjects a Fund to immediate suspension and delisting procedures if the average market capitalization over 30 consecutive trading days is below $15 million. The Commission recognizes that Funds are not traditional operating entities and therefore, it is not possible to apply the same standards specified as continued listing criteria for other listed companies. Thus, the Commission believes that the Exchange's proposed continued listing standards serve as an acceptable means for delisting those Funds that the Exchange believes are unsuitable for continued listing because of insufficient size. The Commission believes that notifying Funds when their average market capitalization falls below $25 million will adequately inform the Funds that they are in jeopardy of immediate delisting if their market capitalization should fall to $15 million. In addition, the Commission notes that Funds will also be subject to delisting under the Exchange's minimum market price criteria of $1.00 per share provision and the discretionary delisting provision, thereby balancing the special circumstances of Funds with the need to protect investors.

The proposal also codifies specific continued listing criteria for REITs with less than three years of operating history. The proposal requires that REITs maintain their REIT status (unless the REIT can qualify as an original listing corporation) and a minimum standard of market capitalization of $15,000,000 to avoid being subject to delisting. REITs with more than three years of operating history are subject to the proposal's continued listing criteria generally applicable to capital or common stock.

The Commission recognizes that in many cases REITs are not traditional operating entities and therefore, it may not be appropriate to hold a REIT with less than three years of operating history to the same continued listing standards applicable to other companies. The Commission believes that the minimum continued listing criteria of $30 million in both market capitalization and stockholders' equity is an acceptable means for screening out those REITs that the Exchange believes should be delisted due to insufficient size. The Commission also believes that, in establishing criteria to uphold the quality of the market, it is appropriate for the Exchange to set a minimum market capitalization standard of $15 million and require REITs to maintain their REIT status for continued listing, thereby striking a balance between the desire of REITs to remain listed on the NYSE and investor protection concerns.

The proposal clarifies and codifies Exchange policy regarding companies that file or announce an intent to file for bankruptcy. The company may no longer face automatic delisting procedures. Instead, the Exchange will have discretion to continue the listing and trading of the company's securities based on the company's performance with respect to the remaining continued listing standards. A company that is below any of the 802.01B continue listing standards that also files or announces intent to file for bankruptcy,

[21] *See* Amendment No. 1, *supra* note 6.

[22] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[23] 15 U.S.C. 78f(b)(5).

[24] *See supra* note 13.

however, will remain subject to immediate suspension and delisting procedures.

The Commission believes that certain flexibility in applying continued listing standards may occasionally be necessary when establishing procedures to uphold the quality of the market. The Commission believes that the proposed flexibility in the bankruptcy context is reasonable to enable the Exchange to evaluate a company's position, particularly because a company might satisfy all of the continued listing criteria yet file for bankruptcy simply to restructure, for example. Accordingly, the Commission believes it is reasonable for the Exchange to have the discretion to evaluate a company's status to prevent premature, automatic delisting of a company otherwise qualified for continued listing on the Exchange. The Commission notes that notwithstanding the preceding, the Exchange may at any time exercise its discretion to proceed with suspension and delisting procedures based solely upon a bankruptcy filing.

The proposal also would add to the factors for consideration under the delisting criteria that address non-numerical indications in financial statements of unsatisfactory financial performance. The proposal allows the Exchange to review an independent public accountant's opinions that might indicate poor financial performance including a qualified, adverse, disclaimer, or unqualified opinion with a ''going concern'' emphasis. The Commission believes that adding this factor to the list of criteria that the Exchange may review to delist a company provides greater transparency for companies that may be evaluated under this discretionary standard.[25]

The proposal would allow the Exchange to scrutinize a company's recovery tactics if the company emerges from being below continued listing standards but then falls below continued listing standards within 12 months. In such a case, the Exchange could truncate the evaluation and follow-up procedures for companies falling below maintenance standards. Furthermore, if a company meets any of the ''other'' delisting criteria, the proposal would permit the Exchange to require that the company immediately comply with the evaluation and follow-up procedures outlined in the *Listing Manual*. In enhancing its market, the NYSE has determined to remove stocks that repeatedly fall below continued listing standards. The Commission believes that to uphold the quality of its market, it is reasonable for the NYSE to implement a procedure that allows it to abridge the follow-up procedure after it has evaluated a company's situation.

The Commission carefully considered the concerns expressed by the ICI and Jakarta in their letters opposing certain provisions of the proposal. The Commission believes that Amendment No. 1 ameliorates ICI and Jakarta's concerns regarding the unique characteristics of Funds and their susceptibility to market conditions by lowering the market capitalization continued listing requirement from $50,000,000 to $15,000,000. The Commission finds that the market capitalization standard codified by the Exchange in the proposal is a clear, nondiscriminatory standard that should promote transparency with respect to the Exchange's continued listing standards for Funds and is not inconsistent with the Act. The Commission believes that the proposed continued listing standard for Funds should promote certainty and accuracy in the continued listing process which should benefit investors and other market participants.

The Commission also carefully considered the concerns expressed by the NASD in its letter opposing the proposal. Without taking a position in this Order on the continued propriety of NYSE Rules 390 and 500, the Commission was not persuaded by the NASDA's contention that in light of those rules, a proposal such as the current one that could reduce the burden for companies to list on the NYSE is, by its nature, inappropriately anti-competitive.

The Commission believes the proposed revisions and codifications of the continued listing criteria should enhance investor protection by providing greater transparency in the continued listing process. This enhanced transparency should assist all market participants, including listed companies and investors, in better understanding the criteria necessary for a company to maintain its listing status on the NYSE. In addition, the Commission believes that the proposal provides the necessary flexibility to determine whether to continue to list an issuer, while ensuring that certain minimum standards must be met. Thus, the Commission believes that the proposed continued listing standards strike a reasonable balance between protecting investors and providing a marketplace for issuers, satisfying the requirement under the federal securities laws. The Commission notes that proposed changes to NYSE Rule 499 are intended to conform that rule to the changes proposed to the continued listing criteria in NYSE Rule 802.

The Commission finds good cause for approving proposed Amendments Nos. 1, 3, and 4 prior to the thirtieth day after the date of publication in the **Federal Register**. In response to commentors, Amendment No. 1 proposes to change the continued listing criteria currently in place under the Pilot for Funds by lowering the financial criteria for continued listing. The Commission believes that accelerating approval on this Amendment will alleviate potential confusion that could result if the 45 day period for bringing a Fund back to compliance with the Exchange's listing standards under the Pilot expires before the lower financial standards proposed in Amendment No. 1 are approved by the Commission.

Amendment No. 3 also aims to correct a problem the Exchange has experienced under the continued listing standards in place under the Pilot. Amendment No. 3 addresses the situation where a company has just held its annual meeting, but finds it necessary to call another meeting to address the problem of its stock price dropping below $1.00 per share for 30 consecutive trading days. Instead of requiring the increased costs and personnel efforts inherent in calling a special meeting of a company's shareholders, Amendment No. 3 proposes to allow the company to remedy the problem by the later of its next annual meeting or six months. The Commission notes that, notwithstanding this provision, the Exchange could delist such a company under the Exchange's discretionary delisting provision, thus ensuring investor protection.

Amendment No. 4 makes several technical corrections to the proposed rule language to eliminate inconsistencies that have developed over the course of the Commission's review of the proposal and amendments. The Commission believes approval of these changes must coincide with the Commission's approval of the other proposed changes to the NYSE's continued listing standards to eliminate discrepancies and conflicting provisions.

In addition, accelerated approval of these amendments will enable the Exchange to simultaneously make all relevant modifications to its *Listing Manual* and avoid any potential confusion due to recent rule revisions. Accordingly, the Commission believes that it is consistent with Section 6 of the

[25] The Commission notes that the Exchange's discretionary review is not limited by the numerical delisting criteria or the ''other'' criteria set forth in NYSE Rule 802.

Act [26] to accelerate approval of Amendments Nos. 1, 3, and 4.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1, 3, and 4, including whether the proposed amendments are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–99–29 and should be submitted by January 3, 2000.

VI. Conclusion

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[27] that the proposed rule change (SR–NYSE–99–29), as amended, relating to the NYSE's continued listing standards, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Jonathan G. Katz,

Secretary.

[FR Doc. 99–32064 Filed 12–9–99; 8:45 am]

BILLING CODE 8010–01–M

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

In compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, SSA is providing notice of its information collections that require submission to the Office of Management and Budget (OMB). SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collections would be most useful if received by the Agency within 60 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer at the address listed at the end of this publication. You can obtain a copy of the collection instruments by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed at the end of this publication.

1. Vocational Rehabilitation ''301'' Program Development—0960–0282. The information on Form SSA–4290 is used by the Social Security Administration (SSA) to determine an individual's continued entitlement to disability benefits when that individual has medically recovered while allegedly participating in a State or alternate Vocational Rehabilitation (VR) program. The respondents are State or alternate VR agencies serving such beneficiaries.

Number of Respondents: 8,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 2,000 hours.

2. Certificate of Election for Reduced Spouse's Benefits—0960–0398. SSA uses the information collected on Form SSA–25 to pay a qualified spouse who elects to receive a reduced benefit at an earlier age. The respondents are entitled spouses seeking reduced benefits.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 1,000 hours.

3. Statement of Funds You Provided to Another, Statement of Funds You Received—0960–0481. Forms SSA–2854 and SSA–2855 are used by SSA to collect information in situations where the SSI claimant alleges that money was borrowed on an informal basis from a noncommercial lender, e.g., a relative or friend, etc. These statements are completed by the borrower/claimant and the lender and are required to determine whether the proceeds from the transaction are/are not income to the borrower/claimant. If the transaction constitutes a bona fide loan, the proceeds are not income to the SSI borrower/claimant. The respondents are applicants for and recipients of SSI payments who borrow money on an informal (noncommercial) basis and individuals who lend money informally to SSI applicants and recipients.

Number of Respondents: 40,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 6,667 hours.

II. The information collections listed below have been submitted to OMB for clearance. Written comments and recommendations on the information collections would be most useful if received within 30 days from the date of this publication. Comments should be directed to the SSA Reports Clearance Officer and the OMB Desk Officer at the addresses listed at the end of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him.

1. Application for Wife's or Husband's Insurance Benefits—0960–0008. SSA uses the information collected on Form SSA–2–F6 to determine whether applicants (including those who are divorced) are entitled to wife's or husband's insurance benefits. The respondents are applicants for wife or husband's benefits (including those who are divorced).

Number of Respondents: 700,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 175,000 hours.

2. Application for Supplemental Security Income—0960–0229. SSA uses the information collected on Form SSA–8000–BK to determine the respondent's eligibility for, and amount of, SSI benefits. The respondents are applicants for SSI Benefits.

Number of Respondents: 1,002,773.

Frequency of response: 1.

Average Burden Per response: 35 minutes for paper application (3 percent of responses) 25 minutes for automated collection of information (97% of responses).

Estimated Annual Burden: 422,835 hours.

(SSA Address): Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235

(OMB Address): Office of Management and Budget, OIRA, Attn: Lori Schack, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, DC 20503

[26] 15 U.S.C. 78f.

[27] 15 U.S.C. 78s(b)(2).

[28] 17 CFR 200.30–3(a)(12).

Dated: December 2, 1999.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 99–31987 Filed 12–9–99; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3171]

Notice of Information Collection Under Emergency Review: Joint Survey on Public-Private Partnership of the Alliance for International Educational and Cultural Exchange (Alliance) and the Interagency Working Group on U.S. Government-sponsored International Exchanges and Training (IAWG)

AGENCY: Department of State.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995.

Type of Request: New information collection request Originating Office: Bureau of Educational and Cultural Affairs, Interagency Working Group on U.S. Government-sponsored International Exchanges and Training (IAWG).

Title of Information Collection: Joint Survey on Public-Private Partnership of the Alliance for International Educational and Cultural Exchange (Alliance) and the Interagency Working Group on U.S. Government-sponsored International Exchanges and Training.

Frequency: This collection is the first effort and every effort will be made to keep additional information collection activities to the minimum required for effective reporting within the IAWG mandate.

Form Number:

Respondents: Private sector organizations that are involved in international training and exchanges.

Estimated Number of Respondents: 1,200.

Average Hours Per Response: 45 minutes.

Total Estimated Burden: 900 hours. The total time, effort or financial resources expended to generate survey responses would not go beyond those that would be incurred in the normal course of an organizations' administrative activities.

The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by November 30, 1999. If granted, the emergency approval is only valid for 180 days. Comments should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until January 21, 2000. The agency requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments are being solicited to permit the agency to:

- 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, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR ADDITIONAL INFORMATION: Public comments, or requests for additional information, regarding the collection listed in this notice should be directed to Mary O'Boyle Franko, Suite 320, 301 4th Street, S.W., 202–260–5124, IAWG, ECA/C, U.S. Department of State, Washington, DC 20520.

Dated: November 12, 1999.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 99–32071 Filed 12–9–99; 8:45 am]

BILLING CODE 4710–11–U

DEPARTMENT OF STATE

[Public Notice 3170]

Certification That the Resources Pledged by the United States at the November 17, 1999 Kosovo Donors Conference Shall Not Exceed 15 Percent of the Total Resources Pledged by All Donors

Pursuant to the authority vested in me under Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000, as enacted in Public Law 106–113, under the heading ''Assistance for Eastern Europe and the Baltic States,'' I hereby certify that the resources pledged by the United States at the November 17, 1999 Kosovo donors conference shall not exceed 15 percent of the total resources pledged by all donors. Commitments totaling $1,056,000,000 were made at the November 17, 1999, Kosovo donors conference. The United States pledged $156,600,000, subject to Congressional appropriation and notification procedures. The United States pledge amounted to 14.82 percent of the total pledges made at the conference.

This certification shall be provided to the Congress and published in the **Federal Register**.

Dated: December 3, 1999.

Madeleine Albright,

Secretary of State.

[FR Doc. 99–32072 Filed 12–9–99; 8:45 am]

BILLING CODE 4710–23–M

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Tennessee Valley Authority.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 64 FR 68190 (December 6, 1999).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m. (EST), Wednesday, (December 8, 1999).

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA Knoxville West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

CHANGES IN THE MEETING:

The TVA Board of Directors has approved the addition of the following items to the previously announced agenda:

A—Budget and Financing

A2. Retention of Net Power Proceeds and Nonpower Proceeds and Payments to the U.S. Treasury in March 2000, pursuant to Section 26 of the TVA Act.

A3. Adoption of Tennessee Valley Authority Financial Statements for Fiscal Year 1999.

FOR MORE INFORMATION: Please call TVA Media Relations at (423) 632–6000, Knoxville, Tennessee. Information is also available through TVA's Washington Office at (202) 898–2999.

Edward S. Christenbury,

General Counsel and Secretary of the Corporation.

[FR Doc. 99–32170 Filed 12–8–99; 8:45 am]

BILLING CODE 8120–08–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–21]

WTO Dispute Settlement Proceeding Regarding Australia—Measures Affecting the Importation of Salmonids

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The Office of the United States Trade Representative (''USTR'') is providing notice of the United States' request for the establishment of a dispute settlement panel under the *Marrakesh Agreement Establishing the World Trade Organization* (''WTO'') to examine Australia's measures affecting the importation of salmonids. In this dispute, the United States alleges that Australia's measures are inconsistent with its obligations under the *Agreement on the Application of Sanitary and Phytosanitary Measures* (''SPS Agreement'') and the *General Agreement on Tariffs and Trade 1994* (''GATT 1994'').

FOR FURTHER INFORMATION CONTACT: Marjorie Florestal, Assistant General Counsel, (202) 395–3581 or Betsy Stillman, Special Advisor for Asia and Pacific Affairs, (202) 395–9543.

SUPPLEMENTARY INFORMATION: Pursuant to section 127(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), USTR is providing notice that on June 16, 1999, the WTO Dispute Settlement Body (''DSB'') established a panel to review the Australian measure on imports of salmonids at the request of the United States. A panel was composed for this purpose on August 2, 1999, but was suspended at the United States' request on November 5, 1999, because the panelists are currently engaged in a related dispute brought by Canada and will examine the U.S. complaint after they have completed their work in the Canadian dispute. Once the panelists are prepared to examine the U.S. dispute, USTR will issue a notice with request for written comments from the public.

Major Issues Raised and Legal Basis of the Complaint

Australia currently maintains certain prohibitions on imports of fresh, chilled, or frozen salmonids, which the United States believes is inconsistent with Australia's obligations under Articles 2, 5, 7 and 8 of the SPS Agreement and Article XI of the GATT 1994.

The Australian measure already has been the subject of a panel proceeding brought by Canada in *Australia—Measures Affecting Importation of Salmon* (WT/DS18/R, WT/DS18/AB/R), and the DSB adopted findings that the ban is inconsistent with Articles 2.2, 2.3, 5.1 and 5.5 of the SPS Agreement. The United States was a third party in that dispute.

On July 19, thirteen days after the reasonable period of time for implementation of the DSB's rulings had expired, Australia announced a new quarantine policy for salmonids and other finfish, designed to implement the WTO panel and Appellate Body reports. The new policy maintains certain restrictions on salmon imports that do not appear to be based on science, including, among other things, differing requirements for ''consumer-ready'' imports that are based on the size of the product concerned.

On November 17, 1995, the United States requested consultations with Australia regarding its import prohibition pursuant to Article 4 of the *Understanding on Rules and Procedures Governing the Settlement of Disputes,* Article XXII of the GATT 1994 and Article 11 of the SPS Agreement. Consultations were held on December 13, 1995, but failed to settle the dispute.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 99–32029 Filed 12–9–99; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection (ICR) requirement abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. A Notice of Proposed Rulemaking (NPRM) was published in the **Federal Register** on May 20, 1999 (64 FR 27488). However, at that time, FRA had not yet determined the exact burden hour impact associated with the information collection requirements of this rule. FRA is now soliciting additional public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than January 10, 2000.

ADDRESSES: Send comments regarding this information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, N.W., Washington, D.C. 20503, Attention: FRA Desk Officer.

FOR FURTHER INFORMATION CONTACT: JoAnne M. McGowan, Chief of Freight Programs Division, RDV–12, Office of Passenger and Freight Services, FRA, 1120 Vermont Ave., N.W., Mail Stop 20, Washington, D.C. 20590 (telephone: (202) 493–6336) or Joseph R. Pomponio, Senior Attorney, Office of Chief Counsel, FRA, 1120 Vermont Ave., N.W., Mail Stop 10, Washington, D.C. 20590 (telephone: (202) 493-6336). (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

The Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, § 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. §§ 3501–3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.*, permitting electronic submission of responses). *See* 44 U.S.C. 3506(c)(2)(A)(i)–(iv); 5 CFR 1320.8(d)(1)(i)–(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received

will advance three objectives: (i) reduce reporting burdens; (ii) ensure that it organizes information collection requirements in a ''user friendly'' format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. *See* 44 U.S.C. 3501.

Below are brief summaries of the information collection activity that FRA will submit for clearance by OMB as required under the PRA:

Title: Railroad Rehabilitation and Improvement Financing Program.

OMB Control Number: 2130-new.

Abstract: The Department of Transportation (DOT) is implementing the Railroad Rehabilitation and Improvement Financing Program (RRIFP) to provide direct loans and loan guarantees to State and local governments, government sponsored authorities and corporations, railroads, and joint ventures that include at least one railroad. Eligible projects include: (1) acquisition, improvement or rehabilitation of intermodal or rail equipment or facilities (including tracks, components of tracks, bridges, yards, buildings, and shops), (2) refinancing outstanding debt incurred for these purposes, or (3) development or establishment of new intermodal or railroad facilities. The aggregate unpaid principal amounts of obligations cannot exceed $3.5 billion at any one time and not less than $1 billion is to be available solely for projects benefiting freight railroads other than Class I railroads (i.e., carriers).

Affected Public: Small railroads, state and local governments, and National Passenger Rail Corporation (Amtrak).

Respondent Universe: 21,956 potential applicants.

Frequency of Submission: Annual.

Reporting Burden:

CFR section	Respondent universe	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
260.19 Pre-application meeting.	21,956 potential applicants	FRA expects no meetings	N/A	N/A	N/A
260.23 Form and content of application generally.	21,956 potential applicants	20 applications	20 hours	400 hours	$14,867
260.25 Additional information for applicants w/o credit rating.	555 potential applicants	18 financial document packages.	40 hours	720 hours	$25,776
260.27 Additional information for loan guarantees.	None	FRA expects no applications for loan guarantees.	N/A	N/A	N/A
260.31 Execution & filing of application:					
Certificate of Pres.	21,956 potential applicants	20 certificates	.6 hours	12 hours	$489
Certificate of CFO	21,956 pot. applcnt	20 certificates	.6 hours	12 hours	$482
Transmittal letter	21,956 pot. applcnt	20 letters	.6 hours	12 hours	$482
Copy/mail app. pkg	21,956 pot. applcnt	20 app. packages	1.5 hours	30 hours	$819
260.33 Info. Request	21,956 pot. applcnt	20 statements	1 hour	20 hours	$791
260.35 Environment Assessment.	21,956 pot. applcnt	1 envir. document	4,475 hours	4,475 hours	492,250
260.37 Waivers and modifications.	None	FRA expects no applications for waivers.	N/A	N/A	N/A
260.41 Maintenance standards—waivers.	None	Burden included in section 260.37.	N/A	N/A	N/A
260.43 Inspection and reporting.	21,956 applicants	20 financial records/other docs.	10 hours	200 hours	$7,910
260.47 Events of Default for guaranteed loans:					
Lender notification	None	None [1]	N/A	N/A	N/A
Det. Liquid. Plan	None		N/A	N/A	N/A
Modif. to Liquid Plan	None		N/A	N/A	N/A
Reports during Liquidation.	None		N/A	N/A	N/A
Final Report	None		N/A	N/A	N/A
260.55 Lenders' Functions and responsibilities:					
Obtain approval	None	None [2]	N/A	N/A	N/A
Envir. Review	None		N/A	N/A	N/A
Add'l Envir. data	None		N/A	N/A	N/A
260.57 Lender's loan servicing:					
Report semiannually on status of loan.	None	None [2]	N/A	N/A	N/A
Meet w Admin.	None		N/A	N/A	N/A
Obtain & forward borrower's financial statements annually.	None		N/A	N/A	N/A
Request approval for modifications.	None		N/A	N/A	N/A

[1] FRA expects no applications for guaranteed loans.

[2] FRA expects that there will be no loan guarantees.

Estimated Total Annual Burden Hours: 5,881.

Status: Regular Review.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501–3520.

Issued in Washington, D.C. on December 3, 1999.

Marie S. Savoy,

Director, Office of Information Technology and Support Systems, Federal Railroad Administration.

[FR Doc. 99–32038 Filed 12–9–99; 8:45 am]

BILLING CODE 4910–06–U

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

New Jersey Transit Rail Operations, Inc.

Waiver Petition Docket Number FRA–1999–6356

New Jersey Transit Rail Operations, Inc. (NJTROI) seeks a temporary waiver of compliance from certain provisions of 49 CFR 238.235, which stipulates that by December 31, 1999, each powered, exterior side door shall have a manual override device installed in the vestibule.

NJTROI requests an extension of this time requirement; specifically, NJTROI requests that it be allowed to complete the required manual override device installation by July 1, 2004, instead of the December 31, 1999 deadline date as specified in the CFR.

Background

NJTROI operates a total of 745 passenger railcars on its system, all of which are equipped with power exterior side doors. None of the cars comply with the new regulation. Of the total, 484 cars are of the push pull type, 230 are electric MU cars, and 31 are push pull cars owned by Metro North and operated by NJTROI. This makes a grand total of 2,959 manual doors that need a manual override system installed.

Reason for Request

NJTROI feels that it cannot complete this project by the required deadline because of the design, manufacturing, retrofitting, testing and installation of a total 2,959 critical safety devices that need to be installed in a total of 745 cars.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 1999–6356) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW, Washington, DC 20590. Communications received by December 30, 1999, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.—5:00 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's web site at http://dms.dot.gov.

Issued in Washington, D.C. on December 8, 1999.

Michael J. Logue,

Deputy Associate Administrator for Safety Compliance and Program Implementation.

[FR Doc. 99–32152 Filed 12–9–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558 (Sub–No. 3)]

Railroad Cost of Capital—1999

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of decision instituting a proceeding to determine the railroads' 1999 cost of capital.

SUMMARY: The Board is instituting a proceeding to determine the railroad industry's cost of capital for 1999. The decision solicits comments on: (1) the railroads' 1999 cost of debt capital; (2) the railroads' 1999 current cost of preferred stock equity capital; (3) the railroads' 1999 cost of common stock equity capital; and (4) the 1999 capital structure mix of the railroad industry on a market value basis.

DATES: Notices of intent to participate are due no later than January 14, 2000. A service list will then be prepared and issued by January 28, 2000. Statements of the railroads are due by March 31, 2000. Statements of other interested persons are due by April 21, 2000. Rebuttal statements by the railroads are due by May 12, 2000.

ADDRESSES: Send an original and 10 copies of statements and a copy of the statement on a 3.5 inch disk in WordPerfect 6.1, and an original and 1 copy of the notice of intent to participate to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Surface Transportation Board, 1925 K Street, NW., Room 100, Washington, DC 20423. Telephone: (202) 565–1674. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.] A copy of the decision can also be obtained from the Board's Internet site (www.stb.dot.gov).

We preliminarily conclude that the proposed action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10704(a).

Decided: December 6, 1999.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 99–32080 Filed 12–9–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Fee Schedule for the Transfer of U.S. Treasury Book-Entry Securities Held on the National Book-Entry System

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

ACTION: Notice.

SUMMARY: The Department of the Treasury is notifying the public of its delay in implementing its 2000 price changes for the transfer of book-entry securities maintained on the National Book-Entry System (NBES) until April 1, 2000. The delay is to minimize changes during the period surrounding the century rollover.

EFFECTIVE DATE: The new fees will go into effect April 1, 2000. The effective date was changed from January 1, 2000, in order to minimize changes during the period surrounding the century rollover.

FOR FURTHER INFORMATION CONTACT: Edward C. Leithead, Director, Primary & Secondary Market Fixed Income Securities (Financing), Bureau of the Public Debt, Suite 3014, 26 Federal Plaza, New York, NY 10278, telephone (212) 264–6358.

Diane M. Polowczuk, Government Securities Specialist (Financing), Bureau of the Public Debt, Room 510, 999 E Street N.W., Washington, D.C. 20239–0001, telephone (202) 691–3550.

SUPPLEMENTARY INFORMATION: Treasury's current basic fee of $.75 for each securities transfer and reversal sent and received will continue in effect until April 1, 2000. The current off-line surcharge of $13.00 will also remain in effect until that date. The new fee schedule, to be announced shortly, will take effect on April 1, 2000.

The fees described in this notice apply only to the transfer of Treasury book-entry securities held on NBES. The Federal Reserve System assesses a fee to recover the costs associated with the processing of the funds component of Treasury book-entry transfer messages, as well as the costs of providing book-entry services for Government agencies on NBES.

The Federal Reserve's $.10 movement of funds fee for a Treasury security transfer over the Fedwire® will also continue in effect until April 1, 2000.

Authority: 31 CFR 357.45.

Dated: December 8, 1999.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 99–32173 Filed 12–9–99; 8:45 am]

BILLING CODE 4810–35–P

TWENTY-FIRST CENTURY WORKFORCE COMMISSION

Notice of Open Meeting

AGENCY: Twenty-First Century Workforce Commission.

ACTION: Notice of Open Meeting by Telephone Conference Call.

SUMMARY: Establishment of the Twenty-First Century Workforce Commission was mandated by Subtitle C of Title III of the Workforce Investment Act, section 331 of Public Law 105–220, 112 Stat. 1087–1091 (29 U.S.C. 2701 note), signed into law on August 7, 1998. The 15 voting member Twenty-First Century Workforce Commission is charged with studying all aspects of the information technology workforce in the United States.

Time & Place

The open meeting will be held via telephone conference call at 9:30 a.m. to approximately 10:30 a.m. on Wednesday, December 22, 1999, at the U.S. Department of Labor, 200 Constitution Ave, NW, Washington DC 20210, in the Policy Center, Room S–2312. Commissioners will also attend via telephone conference call.

Agenda

The agenda for the Commission meeting includes confirmation of the Chairman's selection of Executive Director and discussion of the schedule for regional hearings.

Public Participation:

The meeting, held via telephone conference call from 9:30 a.m. to approximately 10:30 a.m., is open to the public. Individuals with disabilities should contact Sondra Nixon at (202) 219–6197, ext. 183, if special accommodations are needed.

FOR FURTHER INFORMATION CONTACT: Sondra Nixon, Program Analyst, Office of the Assistant Secretary for Policy, U.S. Department of Labor, at (202) 219–6197, ext. 183.

Due to difficulties of scheduling the members, we are unable to provide a full 15-day advance notice of this meeting.

Signed at Washington, DC, this 6th day of December, 1999.

Ruth Samardick,

Secretary of Labor's Designated Liaison to the Twenty-First Century Workforce Commission.

[FR Doc. 99–32055 Filed 12–9–99; 8:45 am]

BILLING CODE 4510–23–M

Corrections

Federal Register

Vol. 64, No. 237

Friday, December 10, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 761

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

RIN 0560–AF69

Streamlining of Regulations for Real Estate and Chattel Appraisals

Correction

In rule document 99–28371 beginning on page 62566, in the issue of Wednesday, November 17, 1999, make the following correction:

§ 761.7 [Corrected]

On page 62567, in the third column, after paragraph § 761.7(d), add paragraph § 761.7(d)(1) to read as follows:

''(1) The Agency does not request a new appraisal;''

[FR Doc. C9–28371 Filed 12–9–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Friday
December 10, 1999

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Spikedace and the Loach Minnow; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF76

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Spikedace and the Loach Minnow

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose designation of critical habitat pursuant to the Endangered Species Act of 1973, as amended (Act), for the spikedace (*Meda fulgida*) and the loach minnow (*Tiaroga = (Rhinichthys) cobitis*). This proposal is made in response to a court order in Southwest Center for Biological Diversity *v.* Clark CIV 98–0769 M/JHG, directing us to complete designation of critical habitat for the spikedace and loach minnow by February 17, 2000.

We are proposing as critical habitat a total of approximately 1,443 kilometers (km) (894 miles (mi)) of rivers and creeks for the two species. The entire designation is proposed as critical habitat for the loach minnow, and approximately 1,325 km (822 mi) of those miles are also proposed as critical habitat for the spikedace. Proposed critical habitat includes portions of the Gila, San Francisco, Blue, Black, Verde, and San Pedro rivers, and some of their tributaries, in Apache, Cochise, Gila, Graham, Greenlee, Pima, Pinal, and Yavapai Counties in Arizona; and Catron, Grant, and Hidalgo Counties in New Mexico.

If this proposed rule is finalized, Federal agencies proposing actions that may affect the areas designated as critical habitat must consult with us on the effects of the proposed actions, pursuant to section 7(a)(2) of the Act.

DATES: We will consider all comments on the rule, the draft Economic Analysis, and draft Environmental Assessment received from interested parties by January 14, 2000. We will hold public hearings in Thatcher, Arizona, and Silver City, New Mexico on December 15, 1999, and in Camp Verde, Arizona, on December 16, 1999.

ADDRESSES: 1. Send your comments on the rule, the draft Economic Analysis, and draft Environmental Assessment to the Arizona Ecological Services Office, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021.

2. The complete file for this rule will be available for public inspection, by appointment, during normal business hours at the Arizona Ecological Services Office, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Road, Suite 103, Phoenix, Arizona 85021.

3. We will hold the Thatcher hearing at Eastern Arizona College Activity Center, Lee Little Theater, 1014 N. College Avenue, Thatcher, Arizona. We will hold the Silver City hearing at Western New Mexico University, White Hall Auditorium, 1000 College Street, Silver City, New Mexico. We will hold the Camp Verde hearing at the Camp Verde Unified Schools Multi-Use Complex Theater, 280 Camp Lincoln Road, Camp Verde, Arizona. We will start all hearings promptly at 7:00 p.m. and end them no later than 9:00 p.m.

FOR FURTHER INFORMATION CONTACT: Field Supervisor, Arizona Ecological Services Office, at the above address; telephone 602/640–2720, facsimile 602/640–2730.

SUPPLEMENTARY INFORMATION:

Background

Spikedace

The spikedace is a small, slim fish less than 80 millimeters (mm) (3 inches (in)) long. It is characterized by very silvery sides and by spines in the dorsal and pelvic fins (Minckley 1973). This species is found in moderate to large perennial streams, where it inhabits shallow riffles with sand, gravel, and rubble substrates and moderate to swift currents as well as swift pools over sand or gravel substrates (Barber *et al.* 1970; Propst *et al.* 1986; Rinne 1991). Specific habitat for this species consists of shear zones where rapid flow borders slower flow, areas of sheet flow at the upper ends of mid-channel sand/gravel bars; and eddies at downstream riffle edges (Propst *et al.* 1986; Rinne and Kroeger 1988). Recurrent flooding and a natural hydrograph (physical conditions, boundaries, flow, and related characteristics of waters) are very important in maintaining the habitat of spikedace and in helping the species maintain a competitive edge over invading nonnative aquatic species (Propst *et al.* 1986; Minckley and Meffe 1987).

The spikedace was first collected in 1851 from the Rio San Pedro in Arizona and was described from those specimens in 1856 by Girard. It is the only species in the genus *Meda*. The spikedace was once common throughout much of the Gila River basin, including the mainstem Gila River upstream of Phoenix, and the Verde, Agua Fria, Salt, San Pedro, and San Francisco subbasins. It occupies suitable habitat in both the mainstream reaches and moderate-gradient perennial tributaries, up to about 2,000 meters (m) (6,500 feet (ft)) elevation (Miller 1960; Chamberlain 1904; Gilbert and Scofield 1898; Cope and Yarrow 1875).

Habitat destruction and competition and predation by nonnative aquatic species have severely reduced its range and abundance. It is now restricted to approximately 445 km (276 mi) of stream in portions of the upper Gila River (Grant, Catron, and Hidalgo Counties, NM), middle Gila River (Pinal County, AZ), lower San Pedro River (Pinal County, AZ), Aravaipa Creek (Graham and Pinal Counties, AZ), Eagle Creek (Graham and Greenlee Counties, AZ), and the Verde River (Yavapai County, AZ) (Anderson 1978; Jakle 1992; Sublette *et al.* 1990; Bestgen, 1985; Marsh *et al.* 1990; Bettaso *et al.* 1995; Propst *et al.* 1986; Propst *et al.* 1985; Stefferud and Rinne 1996). Its present range is only about 10–15 percent of the historical range, and the status of the species within occupied areas ranges from common to very rare. At present, the species is common only in Aravaipa Creek and some parts of the upper Gila River in New Mexico.

Loach Minnow

The loach minnow is a small, slender, elongated fish less than 80 mm (3 in.) long. It is olivaceous in color with an oblique (slanting) terminal mouth and eyes markedly directed upward (Minckley 1973). This species is found in small to large perennial streams, using shallow, turbulent riffles with primarily cobble substrate and swift currents (Minckley 1973; Propst and Bestgen 1991; Rinne 1989; Propst *et al.* 1988). Loach minnow uses the spaces between, and in the lee of, larger substrate for resting and spawning. It is rare or absent from habitats where fine sediments fill the interstitial spaces (small, narrow spaces between rocks or other substrate) (Propst and Bestgen 1991). Recurrent flooding and a natural hydrograph are very important in maintaining the habitat of loach minnow and in helping the species maintain a competitive edge over invading nonnative aquatic species (Propst *et al.* 1986; Propst and Bestgen 1991).

The loach minnow was first collected in 1851 from the Rio San Pedro in Arizona and was described from those specimens in 1865 by Girard. The loach minnow was once locally common throughout much of the Gila River basin, including the mainstem Gila River upstream of Phoenix, and the

Verde, Salt, San Pedro, and San Francisco subbasins. It occupies suitable habitat in both the mainstream reaches and moderate-gradient perennial tributaries, up to about 2,500 m (8,200 ft) elevation. Habitat destruction and competition and predation by nonnative aquatic species have severely reduced its range and abundance. It is now restricted to approximately 645 km (400 mi) of stream in portions of the upper Gila River (Grant, Catron, and Hidalgo Counties, NM), the San Francisco and Tularosa Rivers and their tributaries Negrito and Whitewater Creeks (Catron County, NM), the Blue River and its tributaries Dry Blue, Campbell Blue, Little Blue, Pace, and Frieborn Creeks (Greenlee County, AZ and Catron County, NM), Aravaipa Creek and its tributaries Turkey and Deer Creeks (Graham and Pinal Counties, AZ), Eagle Creek (Graham and Greenlee Counties, AZ), the White River (Apache, Gila, and Navajo Counties, AZ), and the Black River (Apache and Greenlee Counties, AZ) (Bagley *et al.* 1998; Bagley *et al.* 1996; Barber and Minckley 1966; Bettaso *et al.* 1995; Britt 1982; Leon 1989; Marsh *et al.* 1990; Propst 1996; Propst and Bestgen 1991; Propst *et al.* 1985; Springer 1995). The present range is only 15–20 percent of its historical range, and the status of the species within occupied areas ranges from common to very rare. At present, the species is common only in Aravaipa Creek, the Blue River, and limited portions of the San Francisco, upper Gila, and Tularosa Rivers in New Mexico.

Previous Federal Actions

The spikedace was included as a Category 1 candidate species in our December 30, 1982, Vertebrate Notice of Review (47 FR 58454). Category 1 included those taxa for which we had substantial biological information to support listing the species as endangered or threatened. We were petitioned on March 14, 1985, by the American Fisheries Society (AFS) and on March 18, 1985, by the Desert Fishes Council (DFC) to list the spikedace as threatened. Because the species was already under active petition by AFS, the DFC petition was considered a letter of comment. Our evaluation of the AFS petition revealed that the petitioned action was warranted, and we published a proposed rule to list this species as threatened with critical habitat on June 18, 1985 (50 FR 25390). We published the final rule listing the spikedace as a threatened species on July 1, 1986 (51 FR 23769). We did not finalize the proposed critical habitat designation at the time of listing but postponed the designation to allow us to gather and analyze economic data, in compliance with section 4(b)(2) of the Act.

We included the loach minnow as a Category 1 candidate species in the December 30, 1982, Vertebrate Notice of Review (47 FR 58454). On June 18, 1985 (50 FR 25380) we published a proposed rule to list this species as threatened with critical habitat. We published the final rule listing the loach minnow as a threatened species on October 28, 1986 (51 FR 39468). We did not finalize the proposed critical habitat designation at the time of listing but postponed the designation to allow us to gather and analyze economic data.

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(2)) state that critical habitat is not determinable if information sufficient to perform required analyses of the impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. At the time of listing of the spikedace and loach minnow, we found that critical habitat was not determinable because we had insufficient information to perform the required analyses of the impacts of the designation. As part of a settlement order of January 18, 1994, in *Greater Gila Biodiversity Project* v. *U.S. Fish and Wildlife Service* CIV 93–1913 PHX/PGR, we finalized critical habitat designation for both the spikedace and loach minnow on March 8, 1994 (59 FR 10906 and 10898 respectively).

Critical habitat for spikedace and loach minnow was set aside by court order in *Catron County Board of Commissioners, New Mexico* v. *U.S. Fish and Wildlife Service* CIV No. 93–730 HB (D.N.M., Order of October 13, 1994). The court cited our failure to analyze the effects of critical habitat designation under the National Environmental Policy Act (NEPA) as its basis for setting aside critical habitat for the two species. The United States District Court for the District of Arizona recognized the effect of the *Catron County* ruling as a matter of comity in the *Southwest Center for Biological Diversity* v. *Rogers* CV 96–018–TUC–JMR (D. Ariz., Order of December 28, 1996). As a result of these court rulings, we removed the critical habitat description for spikedace and loach minnow from the Code of Federal Regulations on March 25, 1998 (63 FR 14378).

On September 20, 1999, the United States District Court for the District of New Mexico, *Southwest Center for Biological Diversity* v. *Clark*, CIV 98–0769 M/JHG, ordered us to complete designation of critical habitat for the spikedace and loach minnow by February 17, 2000.

We completed final recovery plans for spikedace and loach minnow in 1991 (Service 1991a, 1991b). We developed those plans under the oversight of the Desert Fishes Recovery Team and other biologists familiar with the species. This proposed rule is based, in part, on recommendations offered in those recovery plans.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. The term ''conservation,'' as defined in section 3(3) of the Act, means ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary'' (i.e., the species is recovered and removed from the list of endangered and threatened species).

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We can exclude areas from critical habitat designation if we determine that the benefits of exclusion outweigh the benefits of including the areas as critical habitat, provided the exclusion will not result in the extinction of the species.

A. Proposed Critical Habitat Designation

In proposing critical habitat for spikedace and loach minnow, we reviewed the overall approach to the conservation of the species undertaken by local, State, Tribal, and Federal agencies and private individuals and organizations since the species' listing in 1986. We also considered the

measures identified as necessary for recovery, as outlined in the species' recovery plans. Additionally, we solicited information from knowledgeable biologists and recommendations from the Desert Fishes Recovery Team. We also reviewed the available information pertaining to habitat requirements of the two species, including material received during previous critical habitat proposals and designations.

Due to the need for additional information on the two species, habitats, threats, controllability of threats, restoration potentials, and other factors, no quantitative criteria for delisting spikedace and loach minnow were set forth in the recovery plans. However, the recovery plans recommend protection of existing populations, enhancement and restoration of habitats occupied by depleted populations, and reestablishment of the two species into selected streams within their historical ranges.

Both recovery plans call for designation of critical habitat for all stream reaches identified in the 1985 proposed rule as well as for consideration of additional stream reaches. Except for Eagle Creek, the recovery plans do not identify the specific streams to be considered for critical habitat designation due to the lack of information to support such identifications available at that time. The recovery plans do identify potential areas for reestablishment of spikedace and loach minnow including the San Pedro River and its tributaries, the San Francisco River, Mescal Creek (a middle Gila River tributary), and Bonita Creek. The recovery plans also recommend evaluation and selection of other potential sites.

Recovery Team discussions since 1991 identified the need for critical habitat designation in Hot Springs and Redfield Canyons; Aravaipa, Eagle, Bonita, Beaver, West Clear, Campbell Blue, and Dry Blue Creeks; and Gila, Verde, San Pedro, San Francisco, Blue, Tularosa, and White Rivers.

The proposed critical habitat described below constitutes our best assessment of areas needed for the conservation of spikedace and loach minnow and is based on the best scientific and commercial information available. The proposed areas are essential to the conservation of the species because they either currently support populations of spikedace and/or loach minnow, or because they currently have, or have the potential for developing, the necessary requirements for survival, growth, and reproduction of the spikedace and/or loach minnow (see description of primary constituent elements, below). All of the proposed areas require special management consideration and protection to ensure their contribution to the species' recovery.

Because of these species' precarious status, mere stabilization of spikedace and loach minnow at their present levels will not achieve conservation. Recovery through protection and enhancement of the existing populations, plus reestablishment of populations in suitable areas of historical range, is necessary for their survival. The recovery plans for both species state, ''One of the most critical goals to be achieved toward recovery is establishment of secure self-reproducing populations in habitats from which the species has been extirpated'' (Service 1991a, 1991b). We, therefore, determine that the unoccupied areas proposed as critical habitat are essential for the conservation of the species.

This proposed designation differs substantially from the critical habitat designation we proposed in 1986 and made final in 1994, and which was subsequently withdrawn under court order. The differences reflect new information we gathered on distribution of spikedace and loach minnow. The changes also reflect the need to consider areas in addition to those designated in 1994. As stated in the 1994 final rules, ''The Service is considering revising critical habitat in the future to add these areas [referring to newly discovered occupied areas]. In addition, the Service is considering adding certain unoccupied areas considered vital for recovery of the species.'' For spikedace, in the 1994 final critical habitat rule, we stated the same but, in addition, specifically recognized the recovery plan recommendation for inclusion of Eagle Creek.

Important considerations in selection of areas proposed in this rule include factors specific to each geographic area or complex of areas, such as size, connectivity, and habitat diversity, as well as rangewide recovery considerations, such as genetic diversity and representation of all major portions of the species' historical ranges. The proposed critical habitat reflects the need for complexes of sufficient size to provide habitat for spikedace and/or loach minnow populations large enough to be self-sustaining over time, despite fluctuations in local conditions.

Each complex contains interconnected waters so that spikedace and loach minnow can move between areas, at least during certain flows or seasons. The ability of the fish to repopulate areas where they are depleted or extirpated is vital to recovery. Some complexes may include stream reaches that do not have substantial spikedace- or loach minnow-specific habitat, but which provide migration corridors as well as play a vital role in the overall health of the aquatic ecosystem and, therefore, the integrity of upstream and downstream spikedace and loach minnow habitats.

The areas we selected for proposed critical habitat designation include areas containing all known remaining genetic diversity within the two species, with the possible exception of the fish on certain tribal lands, which we believe are capable of persistence without critical habitat designation (see discussion under Secretarial Order 3206 later in this proposed rule). Information on spikedace and loach minnow indicates a high degree of genetic differentiation among the remnant populations (Tibbets 1993), making conservation of each remaining population vital to recovery (Tibbets 1992). It is also important that the areas selected for proposed critical habitat designation include a representation of each major subbasin in the historical range of the species.

The proposed designation includes all currently known populations of spikedace and loach minnow, except those on tribal lands. Uncertainty on upstream and downstream distributional limits of some populations may result in small areas of occupied habitat being excluded from the designation. For loach minnow, the proposed designation includes at least one remnant population for each major subbasin except the Verde subbasin, from which it has been completely extirpated. For spikedace, no remnant populations exist in the Agua Fria, Salt, and San Francisco/Blue subbasins. In those subbasins where no populations of spikedace or loach minnow currently exist, the proposed critical habitat includes currently unoccupied areas for restoration of the species, with the exception of the Agua Fria subbasin where no suitable areas are known to remain.

The inclusion of both occupied and currently unoccupied areas in the proposed critical habitat for spikedace and loach minnow is in accordance with section 3(5)(A)(i) of the Act, which provides that areas outside the geographical area currently occupied by the species may meet the definition of critical habitat upon a determination that they are essential for the conservation of the species. Both spikedace and loach minnow are in serious danger of extinction, and their status is declining. In 1994, we made a

finding on a petition that reclassification of spikedace and loach minnow from threatened to endangered was warranted; however, reclassification was precluded by other higher priority listing actions (59 FR 35303–35304). Although additional populations of loach minnow have been found since that time, they are small and their contribution to the status of the species is offset by declines in other populations.

Both of the 1986 listing rules for spikedace and loach minnow conservatively estimated about 2,600 km (1,600 mi) of stream within the species' historical ranges. This proposal includes approximately half that amount for loach minnow and slightly less than half for spikedace. Although this amount is less than the historical ranges for both species, we believe that conservation of spikedace and loach minnow within the proposed areas can achieve long-term survival and recovery of these species.

For each stream reach proposed for designation, the up- and downstream boundaries are described below. Proposed critical habitat includes the stream channels within the identified stream reaches and areas within these reaches potentially inundated during high flow events. This proposal takes into account the naturally dynamic nature of riverine systems and recognizes that floodplains are an integral part of the stream ecosystem. A relatively intact floodplain, along with the periodic flooding in a relatively natural pattern, are important elements necessary for long-term survival and recovery of spikedace and loach minnow. Among other things, the floodplain and its riparian vegetation provides space for natural flooding patterns and latitude for necessary natural channel adjustments to maintain appropriate channel morphology and geometry, provides nutrient input and buffering from sediment and pollutants, stores water for slow release to maintain base flows, and provides protected side channel and backwater habitats for larval and juvenile spikedace and loach minnow.

Spikedace

We propose the following areas as critical habitat for spikedace (see the Regulation Promulgation section of this rule for exact descriptions of boundaries). The proposed designation includes 31 reaches found within portions of 26 streams; however, individual streams are not isolated, but are connected with others to form 7 areas or ''complexes.'' The complexes include those that currently support populations of spikedace, as well as some currently unoccupied by spikedace, but which are considered essential for reestablishing populations of spikedace to achieve recovery. The distances and conversions below are approximate; more precise estimates are provided in the Regulation Promulgation section of this rule.

1. Verde River complex, Yavapai County, Arizona. The Verde River is currently occupied by spikedace. Its tributary streams are believed to be currently unoccupied by spikedace. The Verde River complex is unusual in that a relatively stable thermal and hydrologic regime is found in the upper river and in Fossil Creek. Also, spikedace in the Verde River are genetically (Tibbets 1993) and morphologically (Anderson and Hendrickson 1994) distinct from all other spikedace populations.

a. Verde River—171 km (94 mi) of river extending from the confluence with Fossil Creek upstream to Sullivan Dam, but excluding lands belonging to the Yavapai Apache Tribe. Sullivan Dam is at the upstream limit of perennial flow in the mainstem Verde River. Perennial flow results from a series of river-channel springs and from Granite Creek. Below Fossil Creek, the Verde River becomes larger due to the input of Fossil Creek and changes character to an extent that it may not provide sufficient suitable habitat for spikedace.

b. Fossil Creek—8 km (5 mi) of creek extending from the confluence with the Verde River upstream to the confluence with an unnamed tributary. The lower portion of Fossil Creek contains all elements of spikedace habitat at present, except sufficient discharge. Discharge is currently diverted for hydropower generation at the Childs/Irving Hydropower site. Relicensing of the Childs/Irving Hydropower project will provide enhanced flows into lower Fossil Creek, although the amount of that flow restoration is still under negotiation.

c. West Clear Creek—12 km (7 mi) of creek extending from the confluence with the Verde River upstream to the confluence with Black Mountain Canyon. The lower portion of West Clear Creek was historically known to support spikedace and contains suitable, although degraded, habitat. Gradient and channel morphology changes above Black Mountain Canyon make the upstream area unsuitable for spikedace.

d. Beaver/Wet Beaver Creek—33 km (21 mi) of creek extending from the confluence with the Verde River upstream to the confluence with Casner Canyon. Beaver Creek, and its upstream extension in Wet Beaver Creek, historically supported spikedace and contain suitable, although degraded, habitat. Above Casner Canyon, gradient and channel morphology changes make the stream unsuitable for spikedace.

e. Oak Creek—54 km (34 mi) of creek extending from the confluence with the Verde River upstream to the confluence with an unnamed tributary (near the Yavapai/Coconino County boundary). The lower portion of Oak Creek is part of the historical range of spikedace and contains suitable, although degraded, habitat. Above the unnamed tributary, the creek becomes unsuitable due to urban and suburban development and to increasing gradient and substrate size.

f. Granite Creek—2.3 km (1.4 mi) of creek extending from the confluence with the Verde River upstream to a spring. As a perennial tributary of the upper Verde River, Granite Creek is considered an important expansion area for spikedace recovery.

2. Black River complex, Apache and Greenlee Counties, Arizona. The Salt River subbasin is a significant portion of spikedace historical range and has no existing population of spikedace. Large areas of the subbasin are unsuitable, either because of topography or because of reservoirs, stream channel alteration by humans, or overwhelming nonnative species populations. Recovery for spikedace includes reestablishing populations in the subbasin. The East and West Forks Black River contain suitable habitat, and the continuing presence of loach minnow in the East Fork is evidence that it may support reestablishment of spikedace, which historically occurred with loach minnow in most streams in the Gila River basin. The following are some of the most suitable areas for reestablishment of spikedace.

a. East Fork Black River—8 km (5 mi) of river extending from the confluence with the West Fork Black River upstream to the confluence with Deer Creek.

b. North Fork of the East Fork Black River—18 km (11 mi) of river extending from the confluence with Deer Creek upstream to the confluence with Boneyard Creek.

c. West Fork Black River—10 km (6 mi) of river extending from the confluence with the East Fork Black River upstream to the confluence with Hay Creek. Above Hay Creek the gradient and channel morphology are unsuitable for spikedace.

3. Tonto Creek complex, Gila County, Arizona. Tonto Creek was historically occupied by spikedace and loach minnow. Suitable habitat still exists,

although degradation has occurred due to watershed uses, water diversion, agriculture, roads, and nonnative species introduction. The presence of substantial areas of U.S. Forest Service (USFS) lands make this one of the most promising areas for reestablishment of spikedace in the Salt River subbasin.

a. Tonto Creek—47 km (29 mi) of creek extending from the confluence with Greenback Creek upstream to the confluence with Houston Creek. The influence of Roosevelt Lake below Greenback Creek, and gradient and substrate changes above Houston Creek, make the stream unsuitable for spikedace.

b. Greenback Creek—14 km (8 mi) of creek extending from the confluence with Tonto Creek upstream to Lime Springs.

c. Rye Creek—2.1 km (1.3 mi) of creek extending from the confluence with Tonto Creek upstream to the confluence with Brady Canyon. This area of Rye Creek still supports a native fish community indicating high potential for spikedace reestablishment.

4. Middle Gila/Lower San Pedro/Aravaipa Creek complex, Pinal and Graham Counties, Arizona. This complex is occupied by spikedace with its population status ranging from rare to common. Aravaipa Creek supports one of the best and most protected spikedace populations due to special use designations on Bureau of Land Management (BLM) land and to substantial ownership by The Nature Conservancy as well as planned construction of fish barriers to prevent invasion of nonnative fish species. Enhancement of downstream habitats in the San Pedro and Gila Rivers would contribute substantially to recovery of this species.

a. Gila River—63 km (39 mi) of river extending from Ashurst-Hayden Dam upstream to the confluence with the San Pedro River. A small population of spikedace currently occupies this area. At Ashurst-Hayden Dam, all water is diverted into a canal. Above the confluence with the San Pedro River, flow in the Gila River is highly regulated by San Carlos Dam and becomes marginally suitable for spikedace.

b. San Pedro River—21 km (13 mi) of river extending from the confluence with the Gila River upstream to the confluence with Aravaipa Creek. This area is currently occupied by spikedace. Existing flow in the river comes primarily from surface and subsurface contributions from Aravaipa Creek.

c. Aravaipa Creek—45 km (28 mi) of creek extending from the confluence with the San Pedro River upstream to the confluence with Stowe Gulch. Aravaipa Creek supports a substantial population of spikedace. Stowe Gulch is the upstream limit of sufficient perennial flow for spikedace.

5. Middle-Upper San Pedro River complex, Cochise, Graham, and Pima Counties, Arizona. None of the habitat in this complex is currently occupied by spikedace. However, the San Pedro River is the type locality of spikedace, and this complex contains important restoration area.

a. San Pedro River—74 km (46 mi) of river extending from the confluence with Alder Wash (near Redfield) upstream to the confluence with Ash Creek (near the Narrows). This middle portion of the river has increasing surface flow due to restoration activities, primarily groundwater pumping reductions.

b. Redfield Canyon—22 km (14 mi) of creek extending from the confluence with the San Pedro River upstream to the confluence with Sycamore Canyon. Above Sycamore Canyon, perennial water becomes too scarce, and the habitat becomes unsuitable.

c. Hot Springs Canyon—19 km (12 mi) of creek extending from the confluence with the San Pedro River upstream to the confluence with Bass Canyon. Hot Springs Canyon is currently unoccupied but contains suitable habitat for restoration of spikedace.

d. Bass Canyon—5 km (3 mi) of creek extending from the confluence with Hot Springs Canyon upstream to the confluence with Pine Canyon. Bass Canyon is an extension of the Hot Springs Canyon habitat.

e. San Pedro River—60 km (37 mi) of river extending from the confluence with the Babocomari River upstream to the U.S./Mexico border. Although currently unoccupied, this area is identified in BLM (BLM 1993) planning documents as a high-potential restoration area for spikedace.

6. Gila Box/San Francisco River complex, Graham and Greenlee Counties, Arizona and Catron County, New Mexico. The only spikedace population remaining in the complex is in Eagle Creek. Substantial restoration potential for spikedace exists in the remainder of the complex. This complex has the largest area of habitat suitable for spikedace restoration. In addition, management in the Gila Box, Bonita Creek, and the Blue River are highly compatible with recovery goals, giving restoration of spikedace in this complex a high likelihood of success.

a. Gila River—36 km (23 mi) of river extending from the Brown Canal diversion, at the head of the Safford Valley, upstream to the confluence with Owl Canyon, at the upper end of the Gila Box. The Gila Box is not known to currently support spikedace, but is considered to have a high potential for restoration of the species. Both above and below the Gila Box, the Gila River is highly modified by agriculture, diversions, and urban development.

b. Bonita Creek—19 km (12 mi) of creek extending from the confluence with the Gila River upstream to the confluence with Martinez Wash. Bonita Creek has no spikedace at present but has suitable habitat. Bonita Creek above Martinez Wash lies on the San Carlos Apache Reservation, which is not included in this proposed designation.

c. Eagle Creek—74 km (46 mi) of creek extending from the Phelps-Dodge Diversion Dam upstream to the confluence of Dry Prong and East Eagle Creeks, but excluding lands of the San Carlos Apache Reservation. Because the creek repeatedly flows from private or USFS land into the San Carlos Reservation and back, it is difficult to separately calculate stream mileage on tribal lands. Therefore, the above mileage covers the entire stream segment and is not corrected for tribal exclusions. Eagle Creek supports a small population of spikedace. Below the Phelps-Dodge Diversion Dam, the creek is often dry.

d. San Francisco River—182 km (113 mi) of river extending from the confluence with the Gila River upstream to the confluence with the Tularosa River. Habitat above the Tularosa River does not appear suitable for spikedace. The San Francisco River was historically occupied by spikedace and is important recovery habitat for restoration of the species.

e. Blue River—82 km (51 mi) of river extending from the confluence with the San Francisco River upstream to the confluence of Campbell Blue and Dry Blue creeks. The Blue River is not currently occupied by spikedace, but planning among several State and Federal agencies for restoration of native fishes in the Blue River is under way.

f. Campbell Blue Creek—13 km (8 mi) of creek extending from the confluence of Dry Blue and Campbell Blue Creeks upstream to the confluence with Coleman Canyon. Above Coleman Canyon, the creek changes and becomes steeper and rockier, making it unsuitable for spikedace.

g. Little Blue Creek—5 km (3 mi) of creek extending from the confluence with the Blue River upstream to the mouth of a box canyon. Little Blue Creek is not currently occupied by spikedace, but contains suitable habitat and is considered an important restoration area for the species.

7. Upper Gila River complex, Grant and Catron Counties, New Mexico. This complex is occupied by the largest remaining population of spikedace. It is considered to represent the ''core'' of what remains of the species. Because of the remoteness of the area, there is a relatively low degree of habitat threats.

a. Gila River—164 km (102 mi) of river extending from the confluence with Moore Canyon (near the Arizona/New Mexico border) upstream to the confluence of the East and West Forks. Below Moore Canyon, the river is substantially altered by agriculture, diversion, and urban development, thus making it unsuitable for spikedace.

b. East Fork Gila River—42 km (26 mi) of river extending from the confluence with the West Fork Gila River upstream to the confluence of Beaver and Taylor Creeks.

c. Middle Fork Gila River—12 km (8 mi) of river extending from the confluence with the West Fork Gila River upstream to the confluence with Big Bear Canyon.

d. West Fork Gila River—12 km (8 mi) of river extending from the confluence with the East Fork Gila River upstream to the confluence with EE Canyon. This lower portion of the West Fork is occupied by spikedace, but the river becomes unsuitable for spikedace above EE Canyon due to gradient and channel morphology.

Loach Minnow

We propose the following areas as critical habitat for loach minnow (see the Regulation Promulgation section of this rule for exact descriptions of boundaries). The proposed designation includes 41 reaches found within portions of 26 streams; however, individual streams are not isolated but are connected with others to form 7 complexes. The complexes include those that currently support populations of loach minnow as well as some currently unoccupied by loach minnow but that are considered essential for reestablishing populations of loach minnow to achieve recovery. Substantial overlap occurs with the proposed critical habitat for spikedace; 7 complexes and 26 streams are included in the proposed designation for both species. The distances and conversions below are approximate; more precise estimates are provided in the Regulation Promulgation section of this rule.

1. Verde River complex, Yavapai County, Arizona. Historically known from the Verde River and some of its tributaries, the loach minnow is believed to be extirpated in this complex. The Verde complex is unusual in that a relatively stable thermal and hydrologic regime is found in the upper river and in Fossil Creek. The continuing presence of spikedace and the existence of suitable habitat create a high potential for restoration of loach minnow to the Verde system.

a. Verde River—171 km (106 mi) of river extending from the confluence with Fossil Creek upstream to Sullivan Dam, but excluding lands belonging to the Yavapai Apache Tribe. Sullivan Dam is at the upstream limit of perennial flow in the mainstem Verde River. Perennial flow results from a series of river-channel springs and from Granite Creek. Below Fossil Creek, the Verde River becomes larger due to the input of Fossil Creek and changes character to an extent that it may not provide sufficient suitable habitat for loach minnow.

b. Fossil Creek—8 km (5 mi) of creek extending from the confluence with the Verde River upstream to the confluence with an unnamed tributary. The lower portion of Fossil Creek contains all elements of loach minnow habitat at present, except sufficient discharge. Discharge is currently diverted for hydropower generation at the Childs/Irving Hydropower site. Relicensing of the Childs/Irving Hydropower project will provide enhanced flows into lower Fossil Creek, although the amount of that flow restoration is still under negotiation.

c. West Clear Creek—12 km (7 mi) of creek extending from the confluence with the Verde River upstream to the confluence with Black Mountain Canyon. The lower portion of West Clear Creek contains suitable, although degraded, habitat for loach minnow. Gradient and channel morphology changes above Black Mountain Canyon make the upstream area unsuitable for loach minnow.

d. Beaver/Wet Beaver Creek—33 km (21 mi) of creek extending from the confluence with the Verde River upstream to the confluence with Casner Canyon. Beaver Creek, and its upstream extension in Wet Beaver Creek, historically supported spikedace and contain suitable, although degraded, habitat. Above Casner Canyon, gradient and channel morphology changes make the stream unsuitable for loach minnow.

e. Oak Creek—54 km (34 mi) of creek extending from the confluence with the Verde River upstream to the confluence with an unnamed tributary (near the Yavapai/Coconino County boundary). The lower portion contains suitable, although degraded, habitat for loach minnow. Above the unnamed tributary, the creek becomes unsuitable due to urban and suburban development and to increasing gradient and substrate size.

f. Granite Creek—2.3 km (1.4 mi) of creek extending from the confluence with the Verde River upstream to a spring. Below the spring, which supplies much of the base flow of Granite Creek, there is suitable habitat for loach minnow.

2. Black River complex, Apache and Greenlee Counties, Arizona. The Salt River subbasin is a significant portion of loach minnow historical range, but loach minnow have been extirpated from all but a small portion in the Black and White Rivers. As the only remaining population of loach minnow on public lands in the Salt River basin, the Black River complex is considered vital to survival and recovery of the species.

a. East Fork Black River—8 km (5 mi) of river extending from the confluence with the West Fork Black River upstream to the confluence with Boneyard Creek. This area is occupied by loach minnow, although the downstream end of the population is not well known. This population was only discovered in 1996.

b. North Fork of the East Fork Black River—18 km (11 mi) of river extending from the confluence with Deer Creek upstream to the confluence with Boneyard Creek. This area is occupied by loach minnow, although the upstream portion of the population is not well known. Above Boneyard Creek, the river character makes it unsuitable for loach minnow.

c. Boneyard Creek—2.3 km (1.4 mi) of creek extending from the confluence with the East Fork Black River upstream to the confluence with an unnamed tributary. Although no loach minnow have been found in Boneyard Creek, they are probably present based on the pattern of occupation of lower portions of small tributaries in other parts of the loach minnow range.

d. Coyote Creek—3 km (2 mi) of creek extending from the confluence with the East Fork Black River upstream to the confluence with an unnamed tributary. Loach minnow are thought to use the lower portion of this creek as part of the population in the East Fork Black River.

e. West Fork Black River—10 km (6 mi) of river extending from the confluence with the East Fork Black River upstream to the confluence with Hay Creek. Above Hay Creek, the gradient and channel morphology are unsuitable for loach minnow. The West Fork Black River is not known to be occupied by loach minnow at present. However, it is considered important for conservation of the Black River remnant of the Salt River subbasin population.

3. Tonto Creek complex, Gila County, Arizona. Tonto Creek was historically occupied by spikedace and loach minnow. Suitable habitat still exists, although degradation has occurred due to watershed uses, water diversion, agriculture, roads, and nonnative species introduction. The presence of substantial areas of USFS lands make this one of the most promising areas for reestablishment of loach minnow in the Salt River subbasin.

a. Tonto Creek—70 km (44 mi) of creek extending from the confluence with Greenback Creek upstream to the confluence with Haigler Creek. The influence of Roosevelt Lake above Greenback Creek and changes in channel morphology above Haigler Creek make those portions of the stream unsuitable for loach minnow.

b. Greenback Creek—14 km (8 mi) of creek extending from the confluence with Tonto Creek upstream to Lime Springs.

c. Rye Creek—2.1 km (1.3 mi) of creek extending from the confluence with Tonto Creek upstream to the confluence with Brady Canyon. This area of Rye Creek still supports a native fish community, indicating high potential for loach minnow reestablishment.

4. Middle Gila/Lower San Pedro/Aravaipa Creek complex, Pinal and Graham Counties, Arizona. This complex currently has loach minnow only in Aravaipa Creek and its tributaries. Aravaipa Creek supports one of the best and most protected spikedace populations due to special use designations on Bureau of Land Management (BLM) land and to substantial ownership by The Nature Conservancy as well as planned construction of fish barriers to prevent invasion of nonnative fish species. Enhancement of downstream habitats and expansion of the Aravaipa Creek population into the San Pedro and Gila Rivers would contribute substantially to recovery of this species. Expansion of this population is important to recovery of the species.

a. Gila River—63 km (39 mi) of river extending from Ashurst-Hayden Dam upstream to the confluence with the San Pedro River. At Ashurst-Hayden Dam, all water is diverted into a canal. Above the confluence with the San Pedro River, flow in the Gila River is highly regulated by San Carlos Dam and becomes marginally suitable for loach minnow.

b. San Pedro River—21 km (13 mi) of river extending from the confluence with the Gila River upstream to the confluence with Aravaipa Creek. This section of river is an important connection between the existing population of loach minnow in Aravaipa Creek and the recovery habitat in the Gila River. Existing flow in the river comes primarily from surface and subsurface contributions from Aravaipa Creek.

c. Aravaipa Creek—45 km (28 mi) of creek extending from the confluence with the San Pedro River upstream to the confluence with Stowe Gulch. Aravaipa Creek supports a substantial population of loach minnow. Stowe Gulch is the upstream limit of sufficient perennial flow for loach minnow.

d. Turkey Creek—4 km (3 mi) of creek extending from the confluence with Aravaipa Creek upstream to the confluence with Oak Grove Canyon. This creek is occupied by loach minnow. A substantial portion of the flow in Turkey Creek comes from the Oak Grove Canyon tributary.

e. Deer Creek—4 km (3 mi) of creek extending from the confluence with Aravaipa Creek upstream to the boundary of the Aravaipa Wilderness. This stream is occupied by loach minnow. Suitable habitat extends to the Wilderness boundary.

5. Middle-Upper San Pedro River complex, Cochise, Graham, and Pima Counties, Arizona. None of the habitat in this complex is currently occupied by loach minnow. However, the San Pedro River is the type locality of loach minnow, and this complex contains important restoration areas. a.

San Pedro River—4 km (46 mi) of river extending from the confluence with Alder Wash (near Redfield) upstream to the confluence with Ash Creek (near the Narrows). This middle portion of the river has increasing surface flow due to restoration activities, primarily groundwater pumping reductions.

b. Redfield Canyon—22 km (14 mi) of creek extending from the confluence with the San Pedro River upstream to the confluence with Sycamore Canyon. Above Sycamore Canyon, perennial water becomes too scarce, and the habitat becomes unsuitable.

c. Hot Springs Canyon—20 km (12 mi) of creek extending from the confluence with the San Pedro River upstream to the confluence with Bass Canyon. Hot Springs Canyon contains suitable habitat for restoration of loach minnow.

d. Bass Canyon—5 km (3 mi) of creek extending from the confluence with Hot Springs Canyon upstream to the confluence with Pine Canyon. Bass Canyon is an extension of the Hot Springs Canyon habitat.

e. San Pedro River—60 km (37 mi) of river extending from the confluence with the Babocomari River upstream to the U.S./Mexico border. Although currently unoccupied, this area is identified in BLM planning documents (BLM 1993) as a high-potential restoration area for loach minnow.

6. Gila Box /San Francisco River complex, Graham and Greenlee Counties, Arizona and Catron County, New Mexico. Most of this complex is occupied by loach minnow, although the status varies substantially from one portion to another. Only Bonita Creek, Little Blue Creek, and the Gila River are currently unoccupied. The Blue River system and adjacent portions of the San Francisco River is the longest stretch of occupied loach minnow habitat unbroken by large areas of unsuitable habitat. Management in the Gila Box, Bonita Creek, and the Blue River are highly compatible with recovery goals, giving restoration of loach minnow in this complex a high likelihood of success.

a. Gila River—36 km (23 mi) of river extending from the Brown Canal diversion, at the head of the Safford Valley, upstream to the confluence with Owl Canyon, at the upper end of the Gila Box. The Gila Box is considered to have a high potential for restoration of the loach minnow, and populations are located shortly upstream in both Eagle Creek and the San Francisco River. Both above and below the Gila Box, the Gila River is highly modified by agriculture, diversions, and urban development.

b. Bonita Creek—36 km (23 mi) of creek extending from the confluence with the Gila River upstream to the confluence with Martinez Wash. Suitable habitat for loach minnow exists in Bonita Creek. Bonita Creek above Martinez Wash lies on the San Carlos Apache Reservation, which is not being proposed for designation at this time.

c. Eagle Creek—74 km (46 mi) of creek extending from the Phelps-Dodge Diversion Dam upstream to the confluence of Dry Prong and East Eagle Creeks, but excluding lands of the San Carlos Apache Reservation. Because the creek repeatedly flows from private or USFS land into the San Carlos Reservation and back, it is difficult to separately calculate stream mileage on tribal lands. Therefore, the above mileage covers the entire stream segment and is not corrected for tribal exclusions. Below the Phelps-Dodge Diversion Dam, the creek is often dry.

d. San Francisco River—203 km (126 mi) of river extending from the confluence with the Gila River upstream to the mouth of The Box, a canyon above the town of Reserve. Loach minnow in the San Francisco River vary from common to rare throughout the length of the river.

e. Tularosa River—30 km (19 mi) of river extending from the confluence with the San Francisco River upstream to the town of Cruzville. Above Cruzville, the habitat becomes unsuitable.

f. Negrito Creek—7 km (4 mi) of creek extending from the confluence with the San Francisco River upstream to the confluence with Cerco Canyon. Above this area, gradient and channel morphology make the creek unsuitable for loach minnow.

g. Whitewater Creek—2 km (1 mi) of creek extending from the confluence with the San Francisco River upstream to the confluence with Little Whitewater Creek. Upstream gradient and channel changes make the portion above Little Whitewater Creek unsuitable for loach minnow.

h. Blue River—82 km (51 mi) of river extending from the confluence with the San Francisco River upstream to the confluence of Campbell Blue and Dry Blue Creeks. Planning is under way by several State and Federal agencies to restore native fishes in the Blue River.

i. Campbell Blue Creek—13 km (8 mi) of creek extending from the confluence of Dry Blue and Campbell Blue Creeks upstream to the confluence with Coleman Canyon. Above Coleman Canyon, the creek changes and becomes steeper and rockier, making it unsuitable for loach minnow.

j. Dry Blue Creek—5 km (3 mi) of creek extending from the confluence with Campbell Blue Creek upstream to the confluence with Pace Creek.

k. Pace Creek—1.2 km (0.8 mi) of creek extending from the confluence with Dry Blue Creek upstream to a barrier falls.

l. Frieborn Creek—1.8 km (1.1 mi) of creek extending from the confluence with Dry Blue Creek upstream to an unnamed tributary.

m. Little Blue Creek—5 km (3 mi) of creek extending from the confluence with the Blue River upstream to the mouth of a box canyon. Little Blue Creek is not currently occupied by loach minnow but contains suitable habitat and is considered an important restoration area for the species.

7. Upper Gila River complex, Grant and Catron Counties, New Mexico. This complex is occupied by loach minnow throughout. It contains what is considered to be the ''core'' of the remaining populations of the species. Because of the remoteness of the area, there is a relatively low degree of habitat threats.

a. Gila River—164 km (102 mi) of river extending from the confluence with Moore Canyon (near the Arizona/New Mexico border) upstream to the confluence of the East and West Forks. Below Moore Canyon, the river is substantially altered by agriculture, diversion, and urban development, thus making it unsuitable for loach minnow.

b. East Fork Gila River—42 km (26 mi) of river extending from the confluence with the West Fork Gila River upstream to the confluence of Beaver and Taylor Creeks.

c. Middle Fork Gila River—19 km (12 mi) of river extending from the confluence with the West Fork Gila River upstream to the confluence with Brothers West Canyon.

d. West Fork Gila River—12 km (8 mi) of river extending from the confluence with the East Fork Gila River upstream to the confluence with EE Canyon. This lower portion of the West Fork is occupied by loach minnow, but the river becomes unsuitable above EE Canyon due to gradient and channel morphology.

B. Primary Constituent Elements

The habitat features (primary constituent elements) that provide for the physiological, behavioral, and ecological requirements essential for the conservation of the species are described at 50 CFR 424.12, and include, but are not limited to, the following:

Space for individual and population growth, and for normal behavior;

Food, water, or other nutritional or physiological requirements;

Cover or shelter;

Sites for breeding, reproduction, or rearing of offspring; and

Habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

Spikedace

We determined the primary constituent elements for spikedace from studies on their habitat requirements and population biology including, but not limited to, Barber *et al.* 1970; Minckley 1973; Anderson 1978; Barber and Minckley 1983; Turner and Taffanelli 1983; Barrett *et al.* 1985; Propst *et al.* 1986; Service 1989; Hardy 1990; Douglas *et al.* 1994; Stefferud and Rinne 1996; Velasco 1997. These primary constituent elements include:

1. Permanent, flowing, unpolluted water;

2. Living areas for adult spikedace with slow to swift flow velocities in shallow water with shear zones where rapid flow borders slower flow, areas of sheet flow at the upper ends of mid-channel sand/gravel bars, and eddies at downstream riffle edges;

3. Living areas for juvenile spikedace with slow to moderate flow velocities in shallow water with moderate amounts of instream cover;

4. Living areas for larval spikedace with slow to moderate flow velocities in shallow water with abundant instream cover;

5. Sand, gravel, and cobble substrates with low to moderate amounts of fine sediment and substrate embeddedness;

6. Pool, riffle, run, and backwater components present in the aquatic habitat;

7. Low stream gradient;

8. Water temperatures in the approximate range of 1–30°C (35–85°F), with natural diurnal and seasonal variation;

9. Abundant aquatic insect food base;

10. Periodic natural flooding;

11. A natural, unregulated hydrograph or, if the flows are modified or regulated, then a hydrograph that demonstrates an ability to support a native fish community; and

12. Few or no predatory or competitive nonnative species present.

The areas we are proposing for designation as critical habitat for spikedace provide the above primary constituent elements or will be capable, with restoration, of providing them. All of the proposed areas require special management considerations or protection to ensure their contribution to the species' recovery.

Loach Minnow

We determined the primary constituent elements for loach minnow from studies on their habitat requirements and population biology including, but not limited to, Barber and Minckley 1966; Minckley 1973; Schreiber 1978; Britt 1982; Turner and Taffanelli 1983; Service 1988; Rinne 1989; Hardy 1990; Vives and Minckley 1990; Propst and Bestgen 1991; Douglas *et al.* 1994; Velasco 1997. These primary constituent elements include:

1. Permanent, flowing, unpolluted water;

2. Living areas for adult loach minnow with moderate to swift flow velocities in shallow water with gravel, cobble, and rubble substrates;

3. Living areas for juvenile loach minnow with moderate to swift flow velocities in shallow water with sand, gravel, cobble, and rubble substrates;

4. Living areas for larval loach minnow with slow to moderate velocities in shallow water with sand, gravel, and cobble substrates and abundant instream cover;

5. Spawning areas for loach minnow with slow to swift flow velocities in shallow water with uncemented cobble and rubble substrate;

6. Low amounts of fine sediment and substrate embeddedness;

7. Riffle, run, and backwater components present in the aquatic habitat;

8. Low to moderate stream gradient;

9. Water temperatures in the approximate range of 1–30°C (35–85°F), with natural diurnal and seasonal variation;

10. Abundant aquatic insect food base;

11. Periodic natural flooding;

12. A natural unregulated hydrograph or, if flows are modified or regulated, then a hydrograph that demonstrates an ability to support a native fish community; and

13. few or no predatory or competitive nonnative species present.

The areas we are proposing for designation as critical habitat for loach minnow provide the above primary constituent elements or will be capable, with restoration, of providing them. All of the proposed areas require special management considerations or protection to ensure their contribution to the species' recovery.

C. Land Ownership

Table 1 shows land ownership for areas proposed as critical habitat that are currently occupied by one or both species, and Table 2 shows land ownership for proposed critical habitat that is unoccupied. A general description of land ownership in each complex follows.

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Table 1. Stream distances in kilometers (miles) occupied by either Loach Minnow (*Tiaroga cobitis*) or Spikedace (*Meda fulgida*) by county and ownership.

	Private	State	Federal	Other Gov.	Total
Apache Co., AZ	0	0	31.5 (19.6)	0	31.5 (19.6)
Cochise Co., AZ	0	0	0	0	0
Gila Co., AZ	0	0	0	0	0
Graham Co., AZ	7.7 (4.8)	0	7.0 (4.4)	0	14.7 (9.2)
Greenlee Co., AZ	60.5 (37.6)	2.8 (1.7)	148.8 (92.5)	0	212.0 (131.8)
Pima Co., AZ	0	0	0	0	0
Pinal Co., AZ	78.4 (48.7)	7.3 (4.5)	33.8 (21.0)	0	119.5 (74.2)
Yavapai Co., AZ	69.8 (43.4)	3.3 (2.0)	96.3 (59.8)	0	169.4 (105.2)
AZ Total	**216.3 (134.5)**	**13.4 (8.2)**	**317.4 (197.3)**	**0**	**547.1 (340.0)**
Catron Co., NM	73.9	0	159.7	0	233.6 (145.2)
Grant Co., NM	50.2	2.0	108.6	0	160.8 (99.9)
Hidalgo Co., NM	12.7	0	9.0	0	21.7 (13.5)
NM Total	**136.8**	**2.0**	**277.3**	**0**	**416.1 (258.6)**
TOTAL	**353.1**	**15.4**	**594.7**	**0**	**963.2 (598.5)**

Table 2. Stream distances in kilometers (miles) unoccupied but recoverable by either Loach Minnow (*Tiaroga cobitis*) or Spikedace (*Meda fulgida*) by county and ownership.

	Private	State	Federal	Other Gov.	Total
Apache Co., AZ	0.3	2.8	7.2	0	10.3 (6.4)
Cochise Co., AZ	66.0	7.5	61.3	0	134.8 (83.8)
Gila Co., AZ	10.1	0	77.0	0	87.1 (54.1)
Graham Co., AZ	13.9	10.6	37.6	0	62.1 (38.6)
Greenlee Co., AZ	1.8	0	18.2	0	20.0 (12.4)
Pima Co., AZ	20.5	3.1	0	0	23.6 (14.7)
Pinal Co., AZ	4.4	0	0	0	4.4 (2.7)
Yavapai Co., AZ	60.3	0.5	44.5	2.3	107.6 (66.9)
AZ Total	**177.3**	**24.5**	**245.8**	**2.3**	**449.9 (279.6)**
Catron Co., NM	0	0	0	0	0
Grant Co., NM	0	0	0	0	0
Hidalgo Co., NM	0	0	0	0	0
NM Total	**0**	**0**	**0**	**0**	**0**
TOTAL	**177.3**	**24.5**	**245.8**	**2.3**	**449.9 (279.6)**

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1. Verde River complex—There are large blocks of USFS lands in the upper and lower reaches, with significant areas of private ownership in the Verde Valley and along the lower portions of Oak, Beaver, and West Clear Creeks. There are also lands belonging to the National Park Service (NPS), Arizona State Parks, and the Arizona Game and Fish Department.

2. Black River complex—The ownership is predominantly USFS, with a few small areas of private land.

3. Tonto Creek complex—Land here is mostly USFS on the upper end, but significant areas of private ownership occur in the lower reaches.

4. Middle Gila/Lower San Pedro/Aravaipa Creek complex—This area includes extensive BLM land as well as extensive private land, some State of Arizona lands, and a small area of allotted land owned by the San Carlos Apaches.

5. Middle-Upper San Pedro complex—The BLM is the largest landowner, and there are large areas of private ownership and smaller areas of State of Arizona lands.

6. Gila Box/San Francisco River complex—This complex contains extensive USFS land, some BLM land, and scattered private, State of Arizona, and New Mexico Game and Fish Department (NMGFD) lands. A portion of Eagle Creek is on the San Carlos Apache Reservation, but this area is not proposed as critical habitat at this time. The City of Safford holds significant portions of Bonita Creek.

7. Upper Gila River complex—The largest areas are on USFS land, with small private inholdings. There are large areas of private lands in the Cliff-Gila Valley, and the BLM administers significant stretches upstream of the Arizona/New Mexico border. There are also small areas of NMGFD, NPS, and State of New Mexico lands.

Significant private owners, with lands scattered among several of the proposed critical habitat complexes, include Phelps-Dodge Corporation and The Nature Conservancy. A large number of other private landowners hold lands within the proposed designation. Private lands are primarily used for grazing and agriculture, but also include towns, small-lot residences, and industrial areas.

D. Effect of Critical Habitat Designation

The designation of critical habitat directly affects only Federal agencies. The Act requires Federal agencies to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the survival and recovery of the species. Individuals, organizations, States, local and Tribal governments, and other non-Federal entities are only affected by the designation of critical habitat if their actions occur on Federal lands, require a Federal permit, license, or other

authorization, or involve Federal funding.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its proposed or designated critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act and regulations at 50 CFR 402.10 require Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or to result in destruction or adverse modification of proposed critical habitat.

If a species is subsequently listed or critical habitat is designated, then section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. To that end, if a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with us. Regulations at 50 CFR 402.16 also require Federal agencies to reinitiate consultation in instances where we have already reviewed an action for its effects on a listed species if critical habitat is subsequently designated.

Conference on proposed critical habitat results in a report that may provide conservation recommendations to assist the action agency in eliminating or minimizing adverse effects to the proposed critical habitat that may be caused by the proposed agency action. Our conservation recommendations in a conference report are advisory. If we subsequently finalize the proposed critical habitat, consultation on agency actions that may affect the critical habitat will result in a biological opinion as to whether the proposed action is likely to destroy or adversely modify critical habitat. If we find the proposed agency action is likely to destroy or adversely modify the critical habitat, our biological opinion may also include reasonable and prudent alternatives to the action that are designed to avoid destruction or adverse modification of critical habitat.

As a result of conferencing on the proposed critical habitat, we may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain a biological opinion that is prepared according to 50 CFR 402.13, as if critical habitat were designated as final. We may adopt the formal conference report as the biological opinion when the critical habitat designation is made final, if no significant new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

Section 4(b)(8) of the Act requires us to describe in any proposed or final regulation that designates critical habitat, a description and evaluation of those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements (defined above) to an extent that the value of critical habitat for both the survival and recovery of the spikedace or loach minnow is appreciably reduced.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to ''jeopardize the continued existence'' of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to ''destroy or adversely modify'' critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species.

Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. In those cases, critical habitat provides little additional protection to a species, and the ramifications of its designation are few or none.

Actions on Federal lands that we reviewed in past consultations on spikedace and loach minnow include land management plans; land acquisition and disposal; road and bridge construction, maintenance, and repair; water diversion and development; reservoir construction; off-road vehicle use; livestock grazing and management; fencing; prescribed burning; powerline construction and repair; recovery actions for spikedace and loach minnow; game fish stocking; timber harvest; access easements; flood repair and control; groundwater development; channelization; and canal and other water transport facilities construction and operation. Federal agencies involved with these activities include the USFS, BLM, Service, and Bureau of Reclamation.

Federal actions taken on private, State, or tribal lands on which we consulted in the past for spikedace and loach minnow include irrigation diversion construction and maintenance; flood repair and control; game fish stocking; timber harvest; water diversion and development; reservoir construction; water quality standards; and riparian habitat restoration. Federal agencies involved with these activities include the Natural Resources Conservation Service, Bureau of Reclamation, Environmental Protection Agency, Bureau of Indian Affairs, Indian Health Services, Federal Emergency Management Agency, and the Service.

Federal actions involving issuance of permits to private parties on which we consulted in the past for spikedace and loach minnow include issuance of National Discharge Elimination System permits by the Environmental Protection Agency and issuance of permits under section 404 of the Clean Water Act for dredging and filling in waterways by the Army Corps of Engineers. Private actions for which 404 permits were sought include road and bridge construction, repair and maintenance; flood control and repair; and water diversion construction and repair.

Since the original listing of spikedace and loach minnow in 1986, only three consultations ended in a finding that the proposed action would jeopardize the continued existence of spikedace and/or loach minnow. An additional four proposed actions received draft findings of jeopardy, but for three of those, the requests for consultation were withdrawn and the fourth is still in progress. For the three jeopardy findings, we included changes to projects and recommended or required measures to reduce or eliminate impacts to spikedace and loach minnow and to minimize the potential for take of individuals as follows: Use of available alternative water sources, water conservation measures, development of alternative water quality criteria; toxicity studies with surrogate species; construction and maintenance of barriers to upstream fish movement; monitoring of fish populations; funding nonnative species control and listed fish recovery work; and information and education programs.

In the many biological opinions we prepared that did not result in findings of jeopardy to spikedace and loach minnow, we recommended nonbinding measures to reduce or eliminate impacts to the two species, plus required measures for the purpose of minimizing the potential for take of individuals. Both our recommended and required measures included such things as adjustment in timing of projects to avoid sensitive periods for the species or their habitats; replanting of riparian vegetation; minimization of work and vehicle use in the wetted channel; restriction of riparian and upland vegetation clearing; fencing to exclude livestock and limit recreational use; use of alternative livestock management techniques; monitoring of riparian vegetation, channel morphology, and fish populations; sign installation; protection of buffer zones; avoidance of pollution; cooperative planning efforts; minimization of ground disturbance in the floodplain; use of alternative materials sources; storage of equipment and staging of operations outside the floodplain; use of block nets to exclude fish from the work site; use of sediment barriers; removal of fish from the project area; access restrictions; and use of best management practices to minimize erosion.

As stated above, designation of critical habitat in areas occupied by spikedace or loach minnow is not expected to result in regulatory burden above that already in place due to the presence of the listed species. However, areas designated as critical habitat that are not occupied by the species may require protections similar to those provided to occupied areas under past consultations.

Any activity that would alter the minimum flow or the natural flow regime of any of the 41 stream segments listed above could destroy or adversely modify the critical habitat of either or both species. Such activities include, but are not limited to, groundwater pumping, impoundment, water diversion, and hydropower generation.

Any activity that would significantly alter watershed characteristics of any of the 41 stream segments listed above could destroy or adversely modify the critical habitat of either or both species. Such activities include, but are not limited to, vegetation manipulation, timber harvest, road construction and maintenance, human-ignited prescribed and naturally ignited fire, livestock grazing, mining, and urban and suburban development.

Any activity that would significantly alter the channel morphology of any of the 41 stream segments listed above could destroy or adversely modify the critical habitat of either or both species. Such activities include, but are not limited to, channelization, impoundment, road and bridge construction, deprivation of substrate source, destruction and alteration of riparian vegetation, reduction of available floodplain, removal of gravel or floodplain terrace materials, and excessive sedimentation from mining, livestock grazing, road construction, timber harvest, off-road vehicle use, and other watershed and floodplain disturbances.

Any activity that would significantly alter the water chemistry in any of the 41 stream segments listed above could destroy or adversely modify the critical habitat of either or both species. Such activities include, but are not limited to, release of chemical or biological pollutants into the surface water or connected groundwater at a point source or by dispersed release (non-point).

Any activity that would introduce, spread or augment nonnative aquatic species could destroy or adversely modify the critical habitat of either or both species. Such activities include, but are not limited to, stocking for sport, aesthetics, biological control, or other purposes; use of live bait fish, aquaculture, or dumping of aquarium fish or other species; construction and operation of canals; and interbasin water transfers.

In some cases designation of critical habitat may assist in focusing conservation activities by identifying areas that contain essential habitat features (primary constituent elements), regardless of whether they are currently occupied by the listed species. This identification alerts the public and land management agencies to the importance of an area in the conservation of that species. Critical habitat also identifies areas that may require special management considerations or protection.

If you have questions regarding whether specific activities will likely constitute destruction or adverse modification of critical habitat, contact the Field Supervisor, Arizona Ecological Services Office (see **ADDRESSES** section). Requests for copies of the regulations on listed wildlife and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Division of Endangered Species, P.O. Box 1306, Albuquerque, New Mexico 87103 (telephone 505–248–6920; facsimile 505–248–6788).

Economic Analysis

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific and commercial information available and consider the economic and other relevant impacts of designating a particular area as critical habitat. We based this proposal on the best available scientific information, including the recommendations in the species' recovery plan. We will utilize the economic analysis, and take into consideration all comments and information submitted during the public hearing and comment period, to make a final critical habitat designation. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species. We completed a draft economic analysis, which is available for public review and comment. Send your requests for copies of the economic analysis to the Arizona Ecological Services Office (see **ADDRESSES** section).

Secretarial Order 3206: American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act

The stated purpose of Secretarial Order 3206 (Secretarial Order) is to ''clarif(y) the responsibilities of the component agencies, bureaus, and offices of the Department of the Interior and the Department of Commerce, when actions taken under authority of the Act and associated implementing regulations affect, or may affect, Indian lands, tribal trust resources, or the exercise of American Indian tribal rights.'' The Secretarial Order acknowledges the government-to-government relationship with tribes, and the trust responsibility and treaty obligations of the United States toward Indian tribes.

In keeping with the principles cited in the Secretarial Order, we are committed to assisting Indian tribes in developing and expanding tribal programs so that healthy ecosystems are promoted and conservation regulations, such as designation of critical habitat, on tribal lands are unnecessary (Principle 3). In addition to affirmatively assisting Indian tribes who wish assistance with conservation programs, we recognize that tribes are appropriate governmental entities to manage their lands and tribal trust resources and support tribal measures that preclude the need for conservation regulations.

The Secretarial Order also requires us to consult with Indian tribes that might be affected by the designation of critical habitat in an area that might impact tribal trust resources, tribally owned fee lands, or the exercise of tribal rights. In our deliberations over this critical habitat proposal, we identified two categories of possible effects to tribes or tribal resources. These include: (1) effects resulting from designation of critical habitat on Indian lands; and (2) effects on tribal resources, such as water deliveries, resulting from designation of critical habitat on non-tribal lands. We identified the Indian Reservations of the White Mountain, San Carlos, and Yavapai Apache Tribes as containing stream reaches that may be appropriate for designation of critical habitat. Additionally, several tribes, including the Salt River, Ft. McDowell, and Gila River Indian Tribes, are located downstream from designated critical habitat and depend on water deliveries from upstream sources.

Public Law 106–113 and H.R. 3423 prohibit us from using any of our appropriated funds to implement two provisions of the Secretarial order: Principle 3(C)(ii) (prohibiting the imposing of conservation restrictions involving incidental take if the conservation purposes of the restriction can be achieved by reasonable regulation of non-Indian activities) and Appendix section 3(B)(4) (regarding designation of critical habitat, including the requirement that the Service consult with affected tribes). However, portions of Principle 3(C) unaffected by Public Law 106–113 and H.R. 3423 require consultation with affected tribes prior to implementation of any conservation restriction. Moreover, Presidential Memorandum of April 29, 1994, also requires us to consult with the tribes [on matters that affect them], and section 4(b)(2) of the Act requires us to gather information regarding the designation of critical habitat and the effects thereof from all relevant sources, including the tribes. Therefore, although we will not consult pursuant to Appendix section 3(B)(4) of the Secretarial Order, we will consult with the tribes to the extent possible in the time allowed by the court order pursuant to these other authorities.

1. Designation of Critical Habitat on Indian Reservations

Appendix 3(B)(4) of the Secretarial Order also states: ''Critical habitat shall not be designated [on tribal lands] unless it is determined essential to conserve a listed species. In designating critical habitat, the Services shall evaluate and document the extent to which the conservation needs of the listed species can be achieved by limiting the designation to other lands.'' Again, pursuant to Public Law 106–113 and H.R. 3423, we may not expend funds to implement these requirements. However, we must still determine whether all relevant areas, including tribal lands, in fact qualify as critical habitat pursuant to Section 3(5) of the Act. With respect to currently occupied habitat, that provision limits critical habitat to areas ''on which are found those physical and biological features (I) essential to the conservation of the species and (II) which may require special management considerations and protection.'' Moreover, pursuant to Section 4(b)(2) of the Act, we must determine whether to exclude particular areas from designation because the benefits of exclusion outweigh the benefits of including the areas as critical habitat. We spoke with representatives of the White Mountain Apache, San Carlos Apache, and Yavapai Apache Tribes, the three tribes which may have critical habitat for spikedace or loach minnow on their reservations. However, we do not have information on which to base an assessment of whether voluntary tribal measures are adequate to achieve conservation of spikedace and loach minnow on tribal lands. In addition, the short time allowed by the court to complete this critical habitat designation precludes us from engaging in a level of consultation with the tribes on a government-to-government basis, which would enable us to make this required determination.

Given the above, we are not proposing critical habitat on the Fort Apache, San Carlos Apache, or Yavapai Apache Indian Reservations at this time. However, Eagle Creek and the Verde and White Rivers on these reservations may be critical habitat for the spikedace and loach minnow. As provided under section 4(b)(2) of the Act, we are soliciting information as to whether these areas should be designated as critical habitat and will be discussing with the tribes whether their voluntary measures are adequate to conserve these species on tribal lands. We will consider this information in determining which, if any, tribal land should be included in the final designation as critical habitat for spikedace or loach minnow.

2. Effects on Tribal Trust Resources from Critical Habitat Designation on Non-Tribal Lands

We do not anticipate that proposal of critical habitat on non-tribal lands will result in any impact on tribal trust resources or the exercise of tribal rights. However, it is essential in complying with our responsibilities under the Secretarial Order to communicate with all tribes potentially affected by the designation. As stated above, the Salt River, Ft. McDowell, and Gila River Indian Tribes as well as the White Mountain, San Carlos, and Yavapai Apache Tribes are all located downstream from proposed critical habitat for the spikedace and loach minnow. However, many of these tribes either have major impoundments on their reservations or lie below major impoundments, and release of water from such impoundments may be regulated by court decree or other considerations. Therefore, we are soliciting information during the comment period on potential effects to tribes or tribal resources that may result from critical habitat designation.

Public Comments Solicited

It is our intent that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of excluding areas will outweigh the benefits of including areas as critical habitat;

(2) Specific information on the amount and distribution of spikedace and loach minnow habitat, and what habitat is essential to the conservation of the species and why;

(3) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families; and

(5) Economic and other values associated with designating critical habitat for the spikedace and the loach minnow, such as those derived from nonconsumptive uses (e.g., hiking, camping, birding, enhanced watershed protection, increased soil retention, ''existence values,'' and reductions in administrative costs).

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand including answers to questions such as

the following: (1) Are the requirements in the document clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the ''Supplementary Information'' section of the preamble helpful in understanding the document? (5) What else could we do to make the proposed rule easier to understand?

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure listing decisions are based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule immediately following publication in the **Federal Register** to these peer reviewers. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

We have scheduled three public hearings at the following places and times:

December 15, 1999, from 7:00–9:00 p.m.

1. Eastern Arizona College Activity Center, Lee Little Theater, 1014 N. College Avenue, Thatcher, Arizona
2. Western New Mexico University, White Hall Auditorium, 1000 College Street, Silver City, New Mexico

December 16, 1999, from 7:00–9:00 p.m.

Camp Verde Unified Schools, Multi-Use Complex Theater, 280 Camp Lincoln Road, Camp Verde, Arizona

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this rule is a significant regulatory action. The Office of Management and Budget reviewed this document. We prepared a draft economic analysis of this proposed action to determine the economic consequences of designating the specific areas as critical habitat. The draft economic analysis is available for public review and comment during the comment period on this proposed rule (see **ADDRESSES** section of this rule). The proposed rule, if made final, will not significantly impact entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule will not raise novel legal or policy issues.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

In the economic analysis, we determined that designation of critical habitat will not have a significant effect on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In our economic analysis, we determined that designation of critical habitat will not cause (a) any effect on the economy of $100 million or more, (b) any increases in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions, or (c) any significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

As outlined in our economic analysis, this rule does not impose an unfundated mandate on State, local or tribal governments or the private sector of more than $100 million or greater in any year. The proposed rule, if made final, does not have a significant or unique effect on State local or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings

In accordance with Executive Order 12630, this rule does not have significant takings implications, and a takings implication assessment is not required. This proposed rule, if made final, will not ''take'' private property. However, we will evaluate whether the value of private property is altered by it being designated as critical habitat on a case by case basis. Critical habitat designation is only applicable to Federal lands and to private lands if a Federal nexus exists. We do not designate private lands as critical habitat unless the areas are essential to the conservation of a species.

Federalism

In accordance with Executive Order 13132, this proposed rule, if made final, will not affect the structure or role of States, and will not have direct, substantial, or significant effects on States. As previously stated, critical habitat is applicable to Federal lands and to non-Federal lands only when a Federal nexus exists.

In keeping with Department of the Interior and Department of Commerce policy, the Service requested information from and coordinated development of this critical habitat proposal with appropriate State resource agencies in Arizona and New Mexico, as well as during the listing process. In addition, both States have representatives on our recovery team for this species. We will continue to coordinate any future designation of critical habitat for spikedace and loach minnow with the appropriate State agencies.

Civil Justice Reform

In accordance with Executive Order 12988, the Department of the Interior's Office of the Solicitor determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The Office of the Solicitor will review the final determination for this proposal. We will make every effort to ensure that the final determination contains no drafting errors, provides clear standards, simplifies procedures, reduces burden, and is clearly written such that litigation risk is minimized.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements for which Office of Management and Budget approval under the Paperwork Reduction Act is required.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), *cert. denied* 116 S. Ct. 698 (1996). However, when the range of the species includes States within the Tenth Circuit, such as that of the spikedace and loach minnow, pursuant to the Tenth Circuit ruling in *Catron County Board of Commissioners* v. *U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Cir. 1996), we undertake a NEPA analysis for critical habitat designation. Send your requests for copies of the draft environmental assessment for this proposal to the Arizona Ecological Services Office (see **ADDRESSES** section).

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Arizona Ecological Services Office (see **ADDRESSES** section).

Author

The primary author of this notice is Paul J. Barrett (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—[AMENDED]

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

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

2. Amend § 17.11(h), by revising the entry for ''minnow, loach'' and ''spikedace'' under ''FISHES'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Minnow, loach	Tiaroga (= Rhinichthys) cobitis.	U.S.A. (AZ, NM), Mexico.	entire	T	247	§ 17.95(e)	NA
*	*	*	*	*	*	*	
Spikedace	Meda fulgida	U.S.A. (AZ, NM), Mexico.	entire	T	236	§ 17.95(e)	NA
*	*	*	*	*	*	*	

3. Amend § 17.95(e) by adding critical habitat for the spikedace (*Meda fulgida*) in the same alphabetical order as this species occurs in § 17.11(h).

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) *Fishes.*

* * * * *

SPIKEDACE (Meda fulgida)

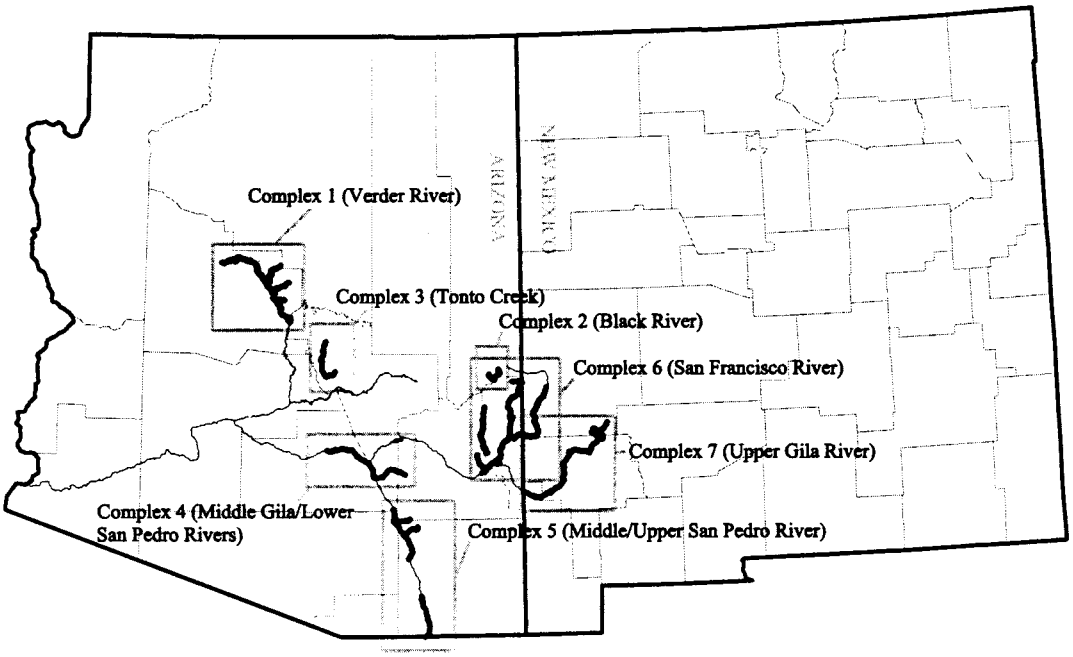
1. Critical habitat units are depicted for Apache, Cochise, Gila, Graham, Greenlee, Navajo, Pima, Pinal, and Yavapai Counties, Arizona, and Catron, Grant, and Hidalgo Counties, New Mexico, on the maps and as described below.

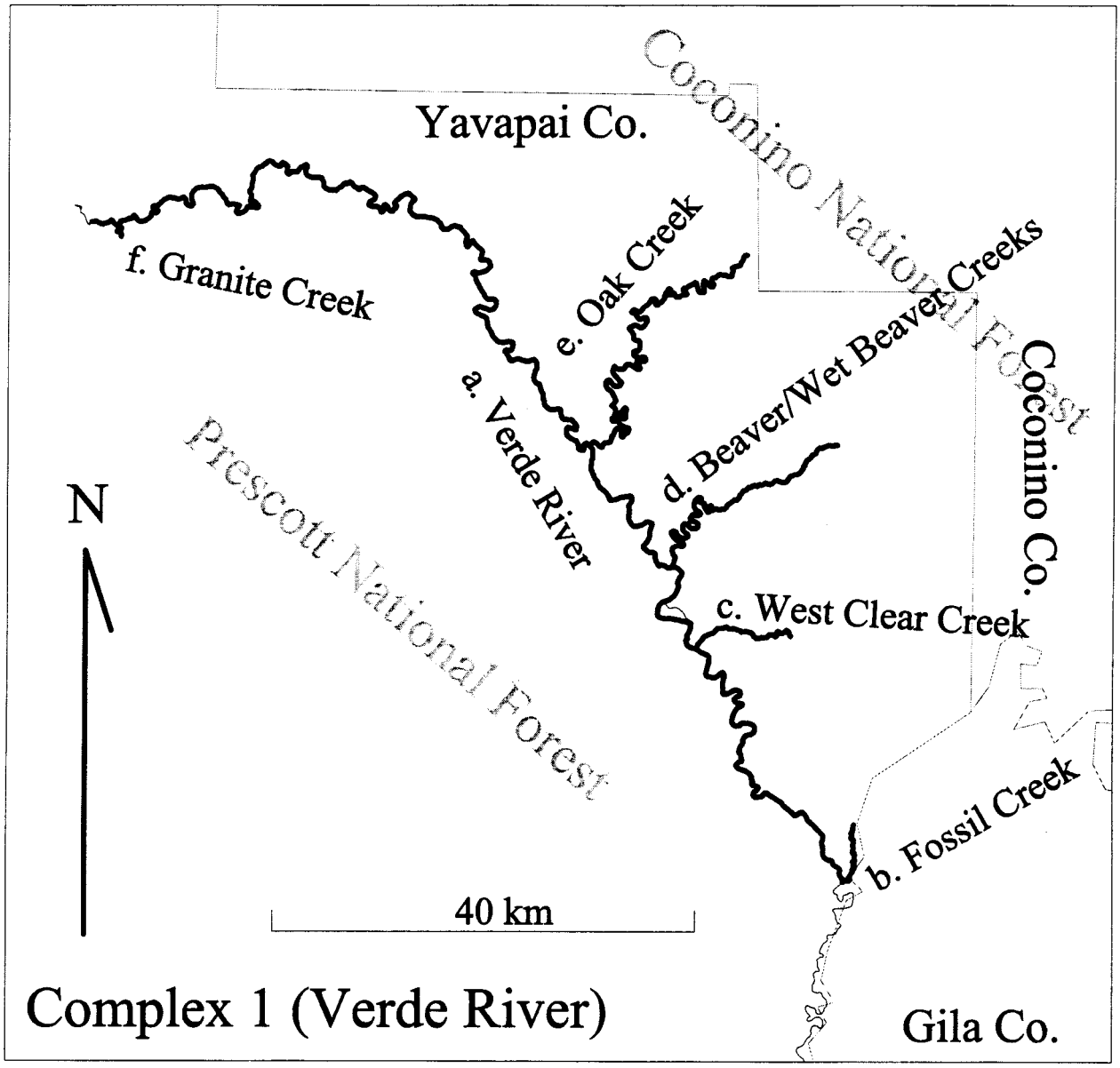
2. Critical habitat includes the stream channels within the identified stream reaches indicated on the maps below and areas within these reaches potentially inundated by high flow events.

3. Within these areas, the primary constituent elements include, but are not limited to, those habitat components that are essential for the primary biological needs of foraging, sheltering, and reproduction. These elements include the following: (1) Permanent, flowing, unpolluted water; (2) living areas for adult spikedace with slow to swift flow velocities in shallow water with shear zones where rapid flow borders slower flow, areas of sheet flow at the upper ends of mid-channel sand/gravel bars, and eddies at downstream riffle edges; (3) living areas for juveniles with slow to moderate water velocities in shallow water with moderate amounts of instream cover; (4) living areas for the larval stage with slow to moderate flow velocities in shallow water with abundant instream cover; (5) sand, gravel, and cobble substrates with low to moderate amounts of fine sediment and substrate embeddedness; (6) pool, riffle, run, and backwater components of the streams; (7) low stream gradient; (8) water temperatures in the approximate range of 1–30 °C (35–85 °F) with natural diurnal and seasonal variation; (9) abundant aquatic insect food base; (10) periodic natural flooding; (11) a natural, unregulated hydrograph, or if flows are modified or regulated, then a hydrograph that demonstrates an ability to support a native fish community; and (12) few or no predatory or competitive nonnative species present.

4. Arizona (Gila and Salt River Meridian (GSRM) and New Mexico (New Mexico Principal Meridian (NMPM)): Areas of land and water as follows (physical features were identified using USGS 7.5′ quadrangle maps; river reach distances were derived from digital data obtained from Arizona Land Resources Information System (ALRIS) and New Mexico Resource Geographic Information System (RGIS)):

Map 1. Locations of river complexes for spikedace (*Meda fulgida*) in Arizona and New Mexico.





SPIKEDACE (Meda fulgida)

Complex 1. Yavapai County, Arizona

a. Verde River for approximately 171.3 km (106.5 mi), extending from the confluence with Fossil Creek in GSRM, T.11N., R.6E., NE1/4 Sec. 25 upstream to Sullivan Dam in GSRM, T.17N., R.2W., NW1/4 Sec. 15.

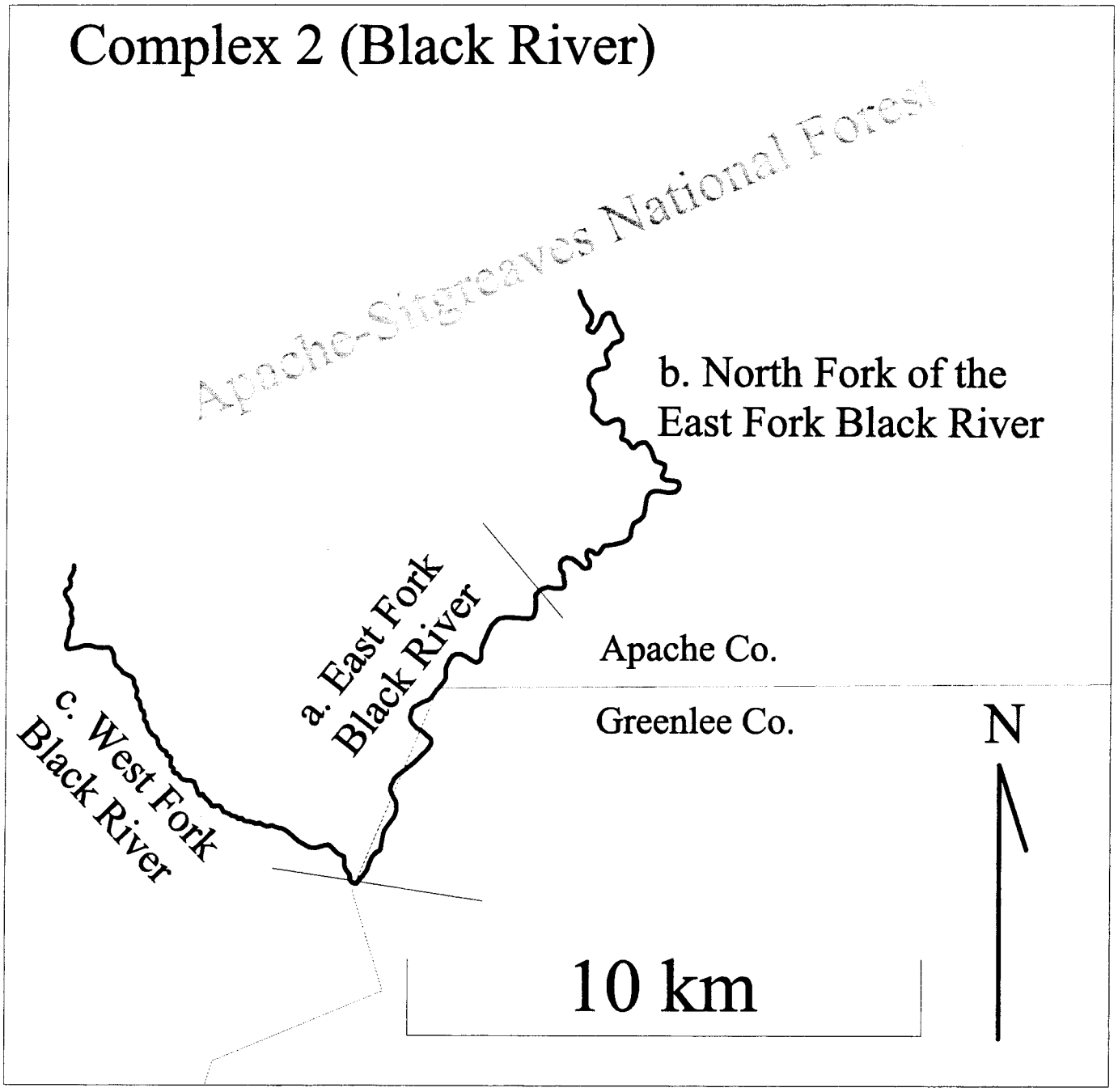
b. Fossil Creek for approximately 7.6 km (4.7 mi), extending from the confluence with the Verde River in GSRM, T.11.N., R.6E., NE1/4 Sec. 25 upstream to the confluence with an unnamed tributary from the northwest in GSRM, T.11 1/2N., R.7E., center Sec. 29.

c. West Clear Creek for approximately 11.6 km (7.2 mi), extending from the confluence with the Verde River in GSRM, T.13N., R.5E., center Sec. 21, upstream to the confluence with Black Mountain Canyon in GSRM, T.13N., R.6E., SE1/4 Sec. 17.

d. Beaver Creek/Wet Beaver Creek for approximately 33.4 km (20.8 mi), extending from the confluence with the Verde River in GSRM, T.14N., R.5E., SE1/4 Sec. 30 upstream to the confluence with Casner Canyon in GSRM, T.15N., R.6E., NW1/4 Sec. 23.

e. Oak Creek for approximately 54.4 km (33.8 mi), extending from the confluence with the Verde River in GSRM, T.15N., R.4E., SE1/4 Sec. 20 upstream to the confluence with an unnamed tributary from the south in GSRM, T.17N., R.5E., SE1/4, NE1/4 Sec. 24.

f. Granite Creek for approximately 2.3 km (1.4 mi), extending from the confluence with the Verde River in GSRM, T.17N., R.2W., NE1/4 Sec. 14 upstream to a spring in GSRM, T.17N., R.2W., SW1/4, SW1/4, Sec. 13.

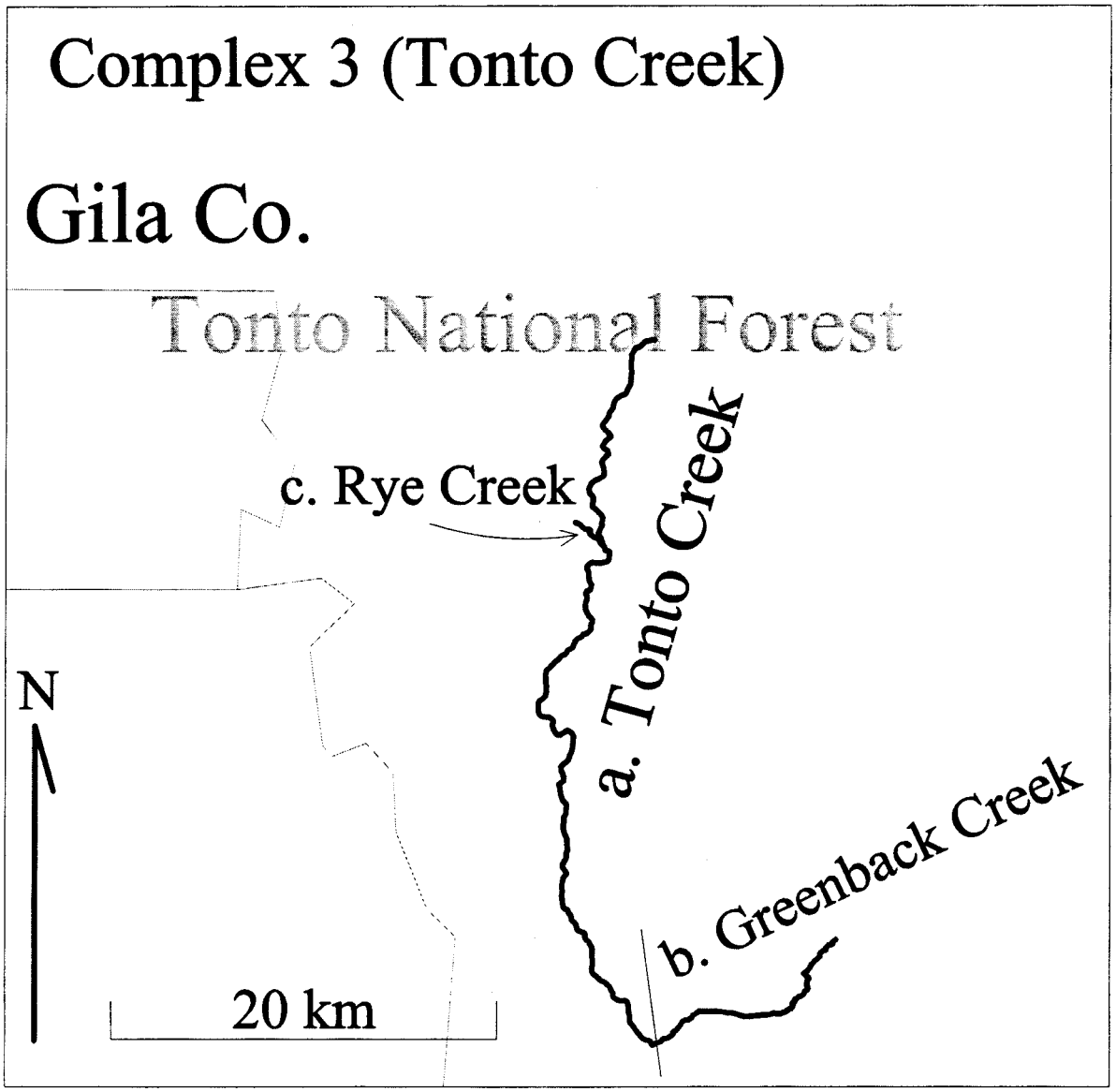


Complex 2. Apache and Greenlee Counties, Arizona

a. East Fork Black River for approximately 8.2 km (5.1 mi), extending from the confluence with the West Fork Black River in GSRM, T.4N., R.28E., SE1/4 Sec. 11 upstream to the confluence with Deer Creek in GSRM, T.5N., R.29E., NW1/4 Sec. 30.

b. North Fork of the East Fork Black River for approximately 11.6 km (7.2 mi), extending from the confluence of the East Fork Black River and Deer Creek in GSRM, T.5N., R.29E., NW1/4 Sec. 30 upstream to the confluence with Boneyard Creek in GSRM, T5N, R29E, SW1/4 Sec. 5.

c. West Fork Black River for approximately 10.3 km (6.4 mi), extending from the confluence with the East Fork Black River in GSRM, T.4N, R.28E., SE1/4 Sec. 11 upstream to the confluence with Hay Creek in GSRM, T.5N., R.28E., SE1/4, Sec. 19.

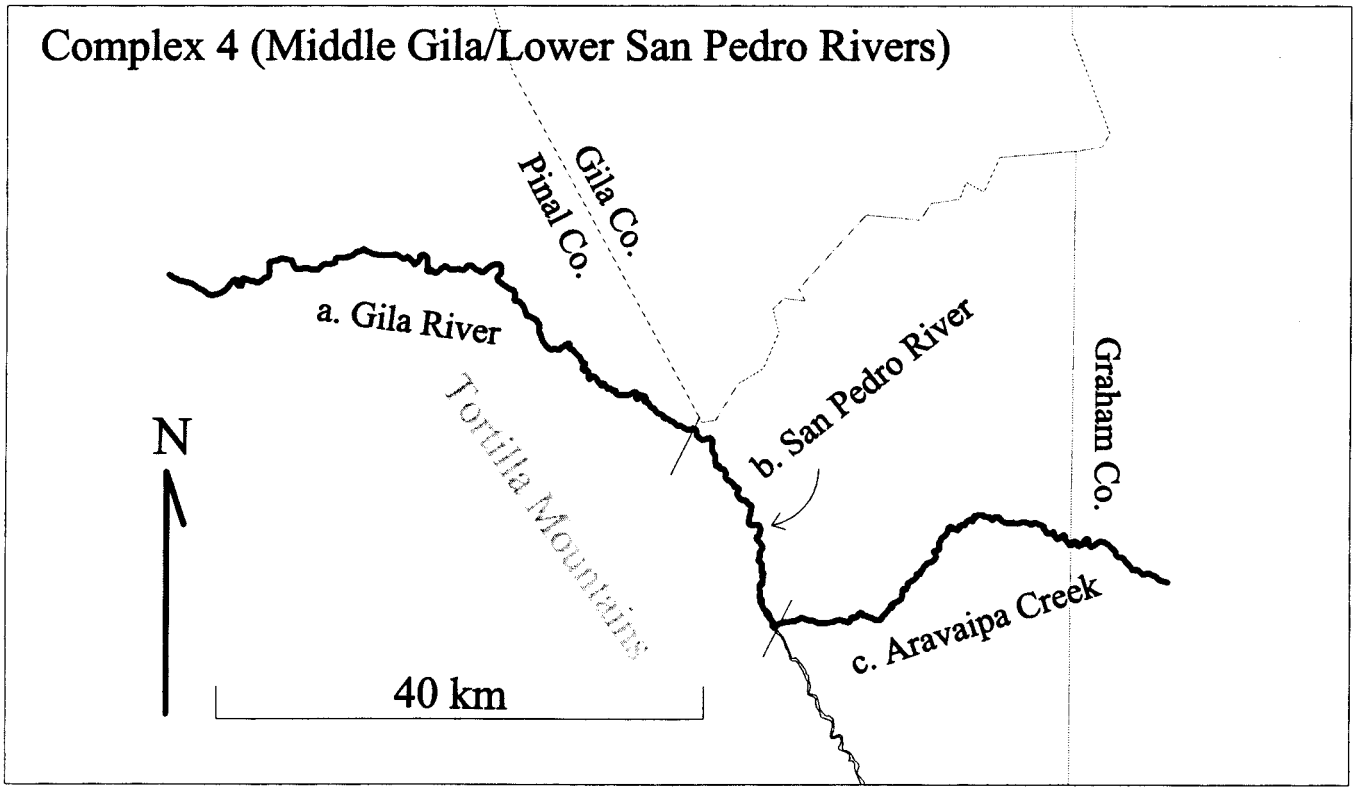


Complex 3. Gila County, Arizona

a. Tonto Creek for approximately 47.0 km (29.2 mi), extending from the confluence with Greenback Creek in GSRM, T.5N., R.11E., NW1/4 Sec. 8 upstream to the confluence with Houston Creek in GSRM, T.9N., R.11E., NE1/4, Sec. 18.

b. Greenback Creek for approximately 13.5 km (8.4 mi), extending from the confluence with Tonto Creek in GSRM, T.5N., R.11E., NW1/4 Sec. 8 upstream to Lime Springs in GSRM, T.6N., R.12E., SW1/4 Sec. 20.

c. Rye Creek for approximately 2.1 km (1.3 mi), extending from the confluence with Tonto Creek in GSRM, T.8N., R.10E., NE1/4 Sec. 24 upstream to the confluence with Brady Canyon in GSRM, T.8N., R.10E., NE1/4 Sec. 14.

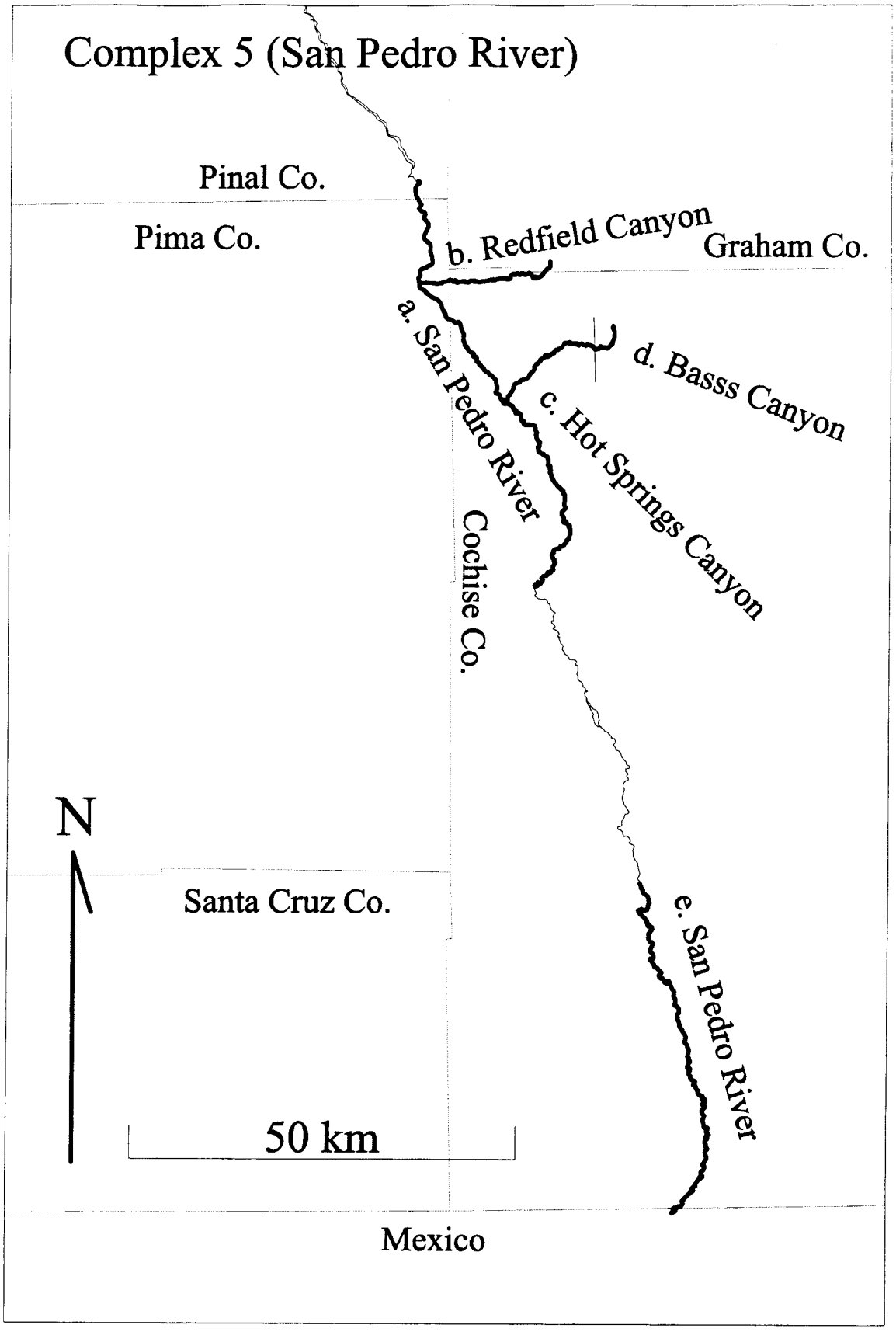


Complex 4. Graham and Pinal Counties, Arizona

a. Gila River for approximately 62.8 km (39.0 mi), extending from Ashurst-Hayden Dam in GSRM, T.4S., R.11E., NW1/4 Sec. 8 upstream to the confluence with the San Pedro River in GSRM, T.5S., R.15E., center Sec. 23.

b. San Pedro River for approximately 21.4 km (13.3 mi), extending from the confluence with the Gila River in GSRM, T.5S., R.15E., center Sec. 23 upstream to the confluence with Aravaipa Creek in GSRM, T.7S., R.16E., center Sec. 9.

c. Aravaipa Creek for approximately 45.3 km (28.1 mi), extending from the confluence with the San Pedro River in GSRM, T.7S., R.16E., center Sec. 9 upstream to the confluence with Stowe Gulch in GSRM, T.6S., R.19E., SE1/4 of the NE1/4 Sec. 35.


Complex 5 (San Pedro River)
Pinal Co.
Pima Co.
b. Redfield Canyon
Graham Co.
a. San Pedro River
d. Basss Canyon
c. Hot Springs Canyon
Cochise Co.
N
Santa Cruz Co.
e. San Pedro River
50 km
Mexico

Complex 5. Cochise, Graham, and Pima Counties, Arizona.

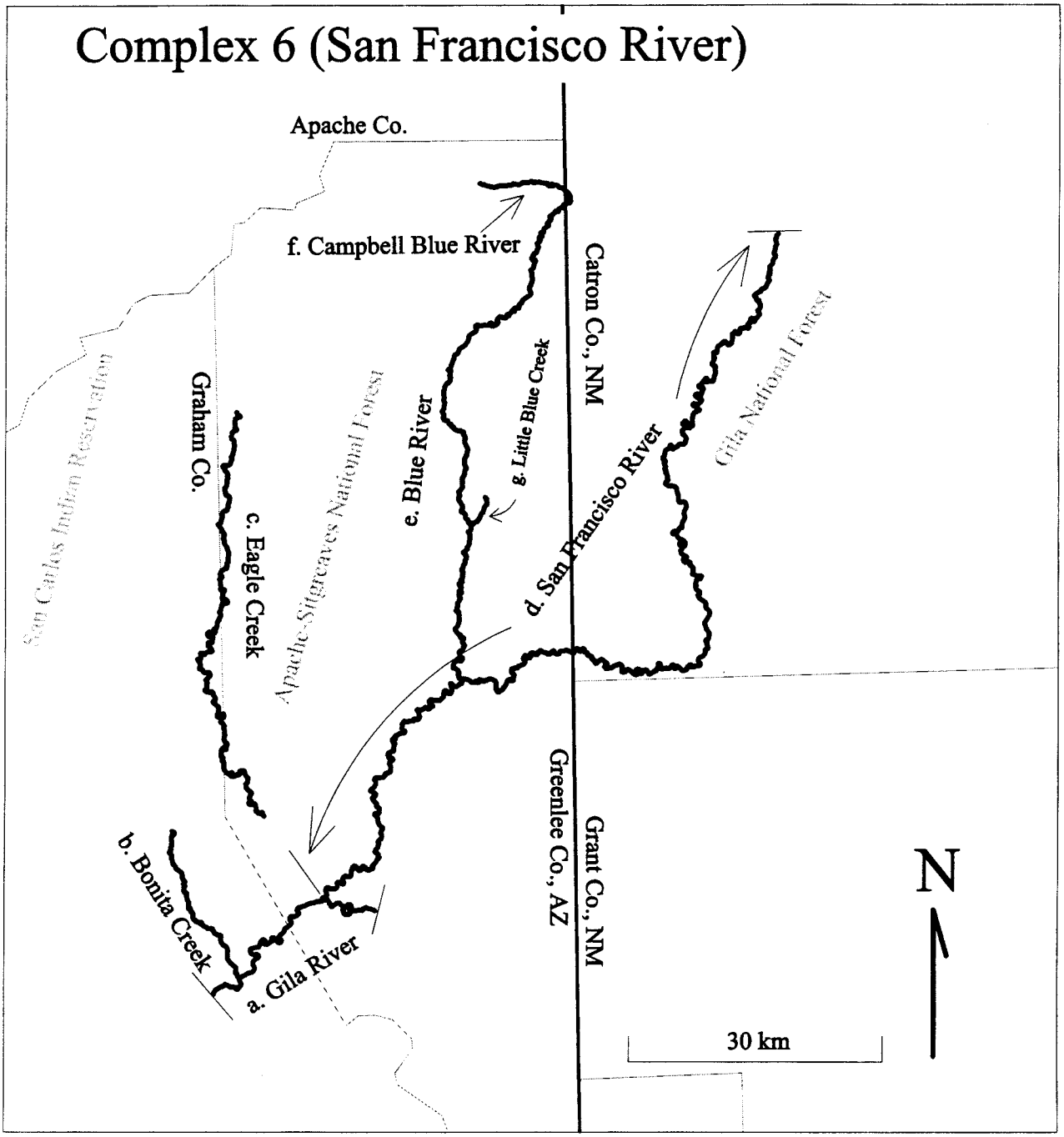
a. San Pedro River for approximately 73.6 km (45.8 mi), extending from the confluence with Alder Wash in GSRM, T.10S., R.18E., SW1/4 Sec.22 upstream to the confluence with Ash Creek in GSRM, T.16S., R.20E., SE1/4 Sec. 6.

b. Redfield Canyon for approximately 22.3 km (13.9 mi), extending from the confluence with the San Pedro River in GSRM, T.11S., R.18E., SW1/4 Sec. 34 upstream to the confluence with Sycamore Canyon in GSRM, T.11S., R.20E., NW1/4 Sec. 28.

c. Hot Springs Canyon for approximately 19.1 km (11.8 mi), extending from the confluence with the San Pedro River in GSRM, T.13S., R.19E., west center Sec. 23 upstream to the confluence with Bass Canyon in GSRM, T.12S., R.20E., NE1/4 Sec. 36.

d. Bass Canyon for approximately 5.1 km (3.2 mi), extending from the confluence with Hot Springs Canyon in GSRM, T.12S., R.20E., NE1/4 Sec. upstream to the confluence with Pine Canyon in GSRM, T.12S., R.21E., center Sec. 20.

e. San Pedro River for approximately 60.0 km (37.2 mi), extending from the confluence with the Babocomari River in the San Juan de las Boquillas y Nogales land grant upstream to the U.S. border with Mexico in GSRM, T.24S., R.22E., Sec. 19.



Complex 6. Graham and Greenlee Counties, Arizona and Catron County, New Mexico

a. Gila River for approximately 36.3 km (22.6 mi), extending from the Brown Canal diversion at the head of the Safford Valley in GSRM, T.6S., R.28E., SE1/4 Sec. 30 upstream to the confluence with Owl Canyon in GSRM, T.5S., R.30E., SW1/4 Sec. 30.

b. Bonita Creek for approximately 23.5 km (14.6 mi), extending from the confluence with the Gila River in GSRM, T.6S., R.28E., SE1/4 Sec. upstream to the confluence with Martinez Wash in GSRM, T.4S., R.27E., SE1/4 Sec.27.

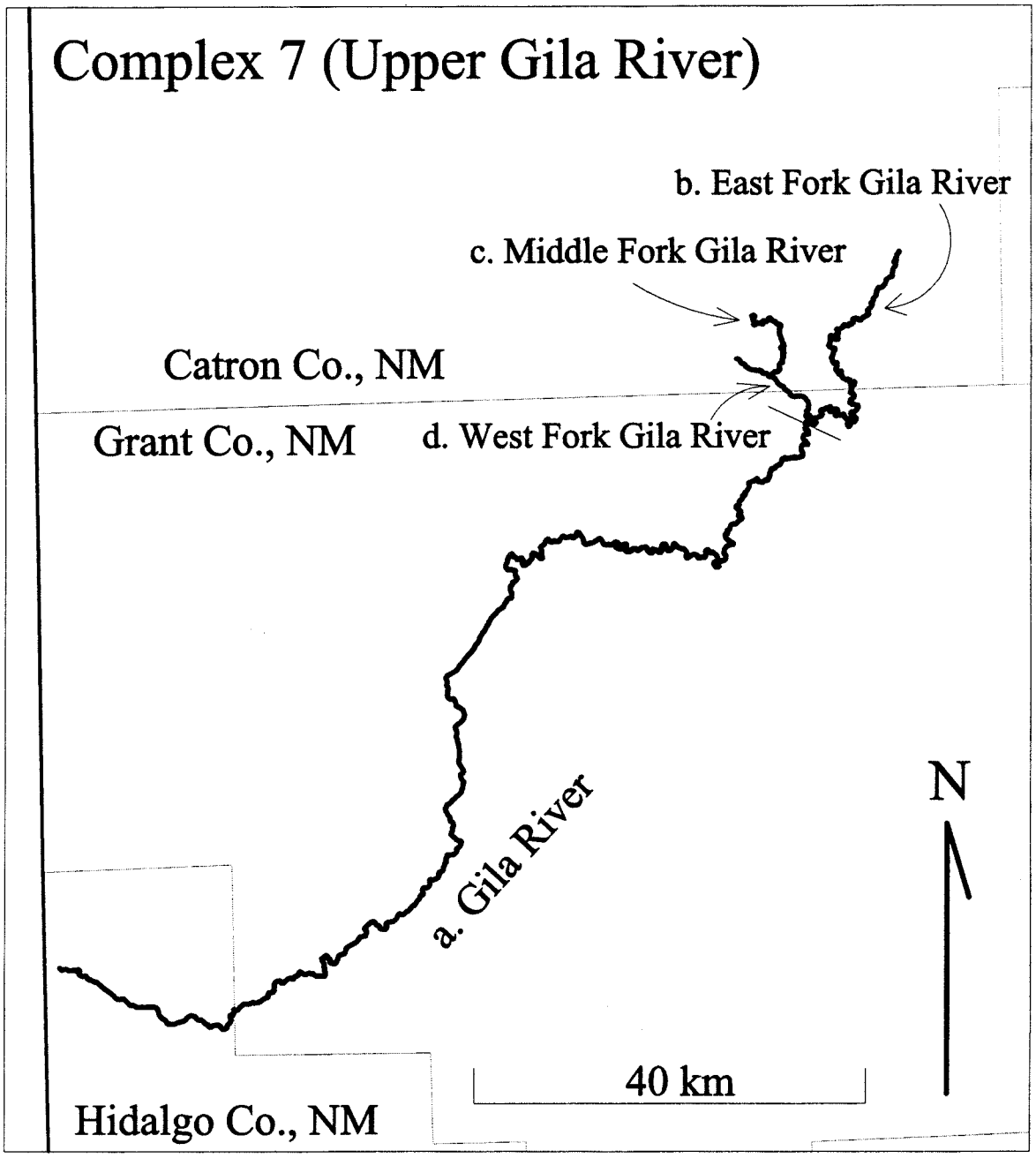
c. Eagle Creek for approximately 72.8 km (45.2 mi), extending from the Phelps-Dodge diversion dam in GSRM, T.4S., R.28E., NW1/4 Sec. 23 upstream to the confluence of Dry Prong and East Eagle Creeks in GSRM, T.2N., R.28E., SW1/4 Sec. 20; but excluding lands of the San Carlos Apache Reservation.

d. San Francisco River for approximately 181.5 km (118.2 mi), extending from the confluence with the Gila River in GSRM, T.5S., R.29E., SE1/4 Sec. 21 upstream to the confluence with the Tularosa River in the NMPM, T.7S., R.19W., SW1/4 Sec. 23.

e. Blue River for approximately 81.9 km (51.0 mi), extending from the confluence with the San Francisco River in GSRM, T.2S., R.31E., SE1/4 Sec. 31 upstream to the confluence of Campbell and Dry Blue Creeks in NMPM, T.7S., R.21W., SE1/4 Sec. 6.

f. Campbell Blue Creek for approximately 13.1 km (8.2 mi), extending from the confluence with Dry Blue Creek in NMPM, T.7S., R.21W., SE1/4 Sec. 6 upstream to the confluence with Coleman Creek in GSRM, T.4 1/2 N., R.31E., SW1/4 of the NE1/4 Sec. 32.

g. Little Blue Creek for approximately 4.5 km (2.8 mi), extending from the confluence with the Blue River in GSRM, T.1S., R.31E., center Sec. upstream to the mouth of a box canyon in GSRM, T.1N., R.31E., NE1/4 SE1/4 Sec. 29.



Complex 7. Grant and Catron Counties, New Mexico.

a. Gila River for approximately 164.4 km (102.2 mi), extending from the confluence with Moore Canyon in NMPM, T.18S., R.21W., SE1/4 SW1/4 Sec. 31 upstream to the confluence of the East and West Forks of the Gila River in NMPM, T.13S., T.13W., center Sec. 8.

b. East Fork Gila River for approximately 42.1 km (26.1 mi), extending from the confluence with the West Fork Gila River in NMPM, T.13S., R.13W., center Sec. 8 upstream to the confluence of Beaver and Taylor Creeks in NMPM, T.11S., R.12W., NE1/4 Sec. 17.

c. Middle Fork Gila River for approximately 12.3 km (7.7 mi), extending from the confluence with the West Fork Gila River in NMPM, T.12S., R.14W., SW1/4 Sec. 25 upstream to the confluence with Big Bear Canyon in NMPM, T.12S., R.14W., NW1/4 Sec. 2.

d. West Fork Gila River for approximately 12.4 km (7.7 mi), extending from the confluence with the East Fork Gila River in NMPM, T.13S., R.13W., center Sec. 8 upstream to the confluence with EE Canyon in NMPM, T.12S., R.14W., east boundary of Sec. 21.

* * * * *

4. Amend § 17.95(e) by adding critical habitat for the loach minnow (*Tiaroga* (=*Rhinichthys*) *cobitis*) in the same alphabetical order as this species occurs in § 17.11(h):

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(e) *Fishes.*

* * * * *

LOACH MINNOW (Tiaroga (=Rhinichthys) cobitis)

1. Critical habitat units are depicted for Apache, Cochise, Gila, Graham, Greenlee, Pima, Pinal, and Yavapai Counties, Arizona, and Catron and Grant Counties, New Mexico on the maps and as described below.

2. Critical habitat includes the stream channels within the identified stream reaches indicated on the maps below and areas within these reaches potentially inundated by high flow events.

3. Within these areas, the primary constituent elements include, but are not limited to, those habitat components that are essential for the primary biological needs of foraging, sheltering, and reproduction. These elements include the following: (1) Permanent flowing, unpolluted water; (2) living areas for adults with moderate to swift flow velocities in shallow water with gravel, cobble, and rubble substrates; (3) living areas for juveniles with moderate to swift flow velocities in shallow water with sand, gravel, cobble, and rubble substrates; (4) living areas for larval loach minnow with slow to moderate velocities in shallow water with sand, gravel, and cobble substrates and abundant instream cover; (5) spawning areas with slow to swift flow velocities in shallow water with uncemented cobble and rubble substrate; (6) low amounts of fine sediment and substrate embeddedness; (7) riffle, run, and backwater components present in the aquatic habitat; (8) low to moderate stream gradient; (9) water temperatures in the approximate range of 1–30°C (35–85°F) with natural diurnal and seasonal variation; (10) abundant aquatic insect food base; (11) periodic natural flooding; (12) a natural, unregulated hydrograph, or if flows are modified or regulated, then a hydrograph that demonstrates a retained ability to support a native fish community; and (13) few or no predatory or competitive nonnative species present.

4. Arizona (Gila and Salt River Meridian (GSRM)) and New Mexico (New Mexico Principal Meridian (NMPM)): Areas of land and water as follows (physical features were identified using USGS 7.5' quadrangle maps; river reach distances were derived from digital data obtained from Arizona Land Resources Information System (ALRIS) and New Mexico Resource Geographic Information System (RGIS)):

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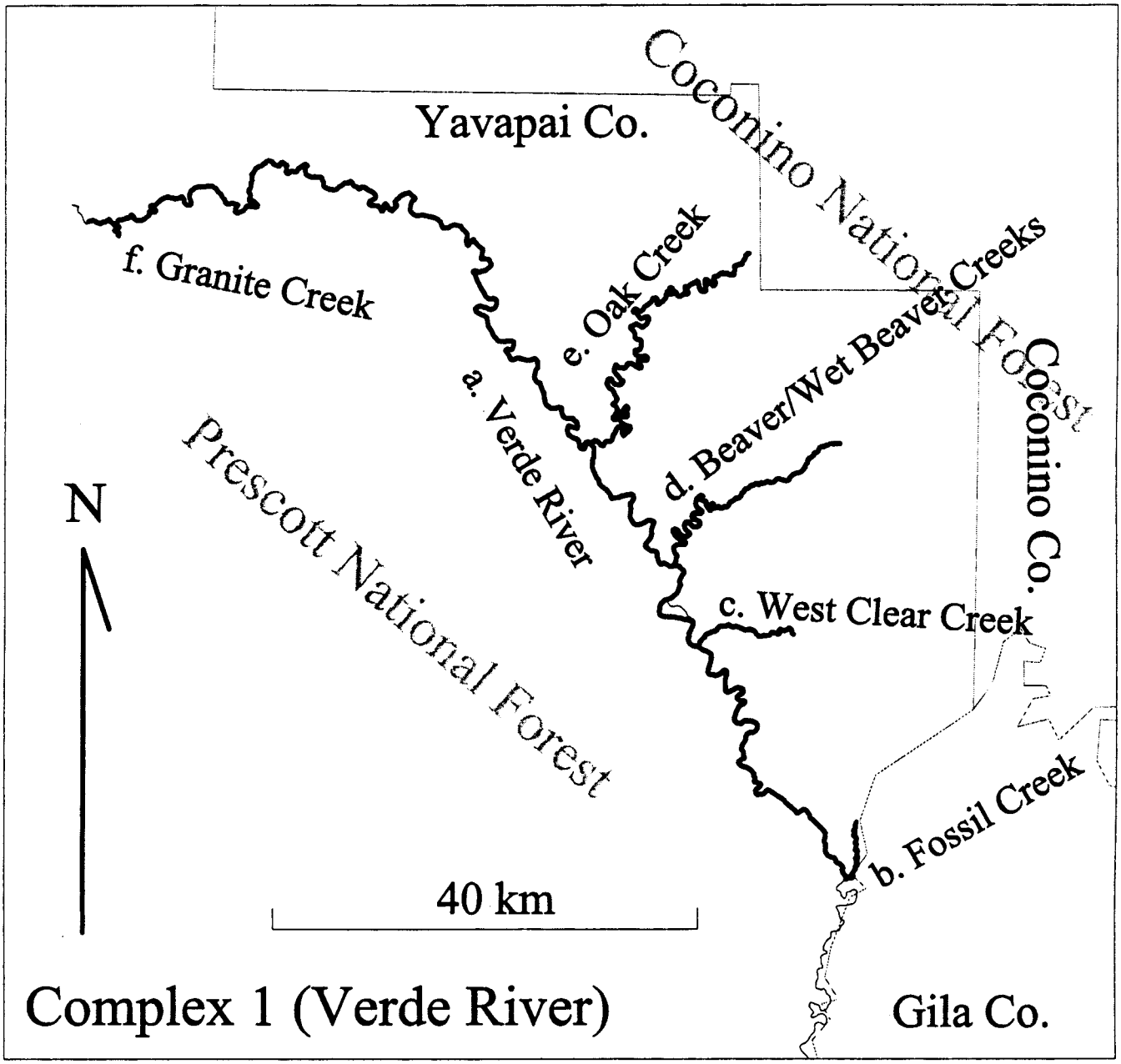


LOACH MINNOW (Tiaroga (=Rhinichthys) cobitis)

Complex 1. Yavapai County, Arizona

a. Verde River for approximately 171.3 km (106.5 mi), extending from the confluence with Fossil Creek in GSRM, T.11N., R.6E., NE1/4 Sec. 25 upstream to Sullivan Dam in GSRM, T.17N., R.2W., NW1/4 Sec. 15.

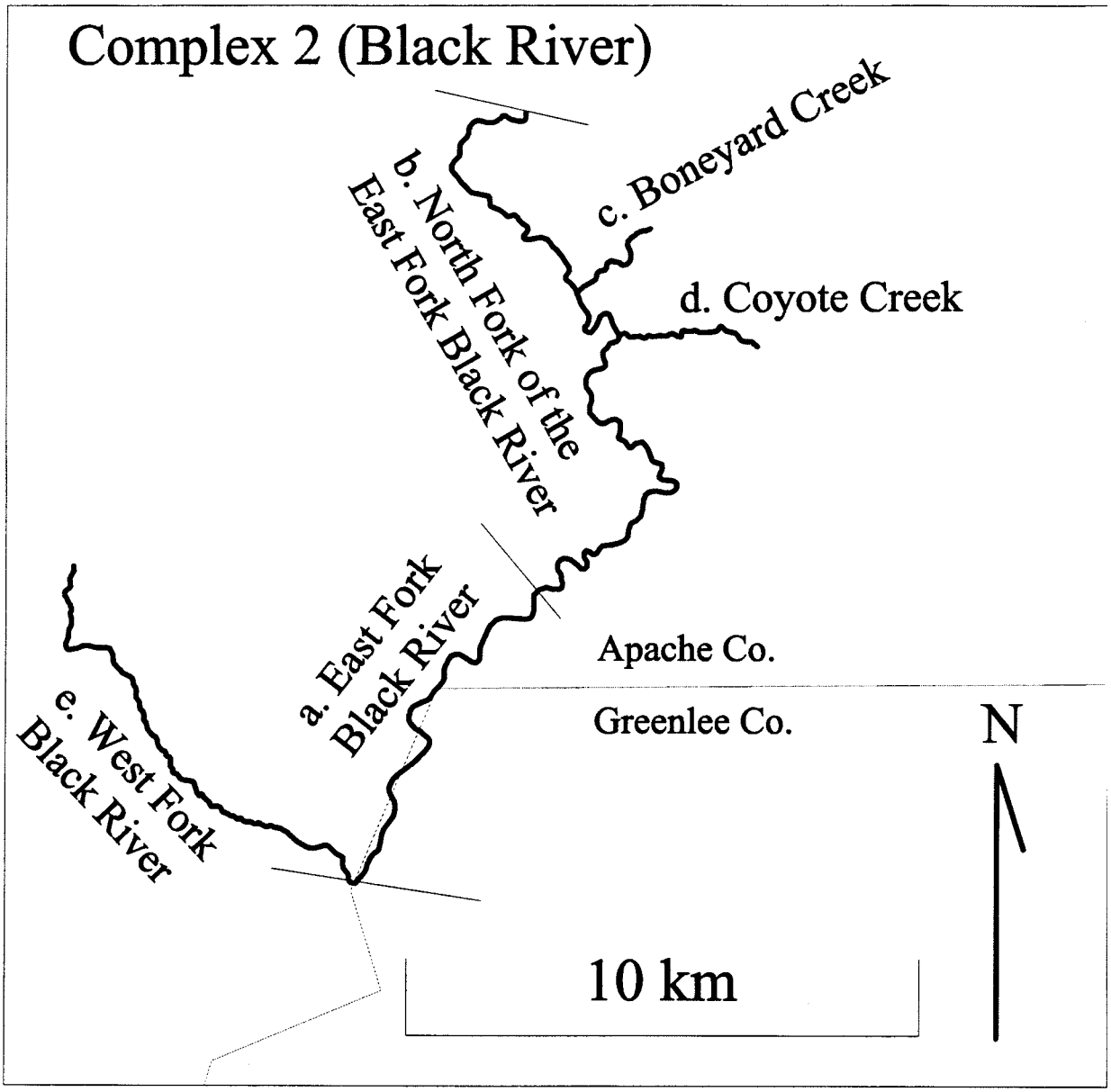
b. Fossil Creek for approximately 7.6 km (4.7 mi), extending from the confluence with the Verde River in GSRM, T.11N., R.6E., NE1/4 Sec. 25 upstream to the confluence with an unnamed tributary from the northwest in GSRM, T.11 1/2N., R.7E., center Sec. 29.

c. West Clear Creek for approximately 11.6 km (7.2 mi), extending from the confluence with the Verde River in GSRM, T.13N., R.5E., center Sec. 21, upstream to the confluence with Black Mountain Canyon in GSRM, T.13N., R.6E., SE1/4 Sec. 17.

d. Beaver Creek/Wet Beaver Creek for approximately 33.4 km (20.8mi), extending from the confluence with the Verde River in GSRM, T.14N., R.5E., SE1/4 Sec. 30 upstream to the confluence with Casner Canyon in GSRM, T.15N., R.6E., NW1/4 Sec. 23.

e. Oak Creek for approximately 54.4 km (33.8 mi), extending from the confluence with the Verde River in GSRM, T.15N., R.4E., SE1/4 Sec. 20 upstream to the confluence with an unnamed tributary from the south in GSRM, T.17N., R.5E., SE1/4, NE1/4 Sec. 24.

f. Granite Creek for approximately 2.3 km (1.4 mi), extending from the confluence with the Verde River in GSRM, T.17N., R.2W., NE1/4 Sec. 14 upstream to a spring in GSRM, T.17N., R.2W., SW1/4, SW1/4, Sec. 13.



Complex 2. Apache and Greenlee Counties, Arizona

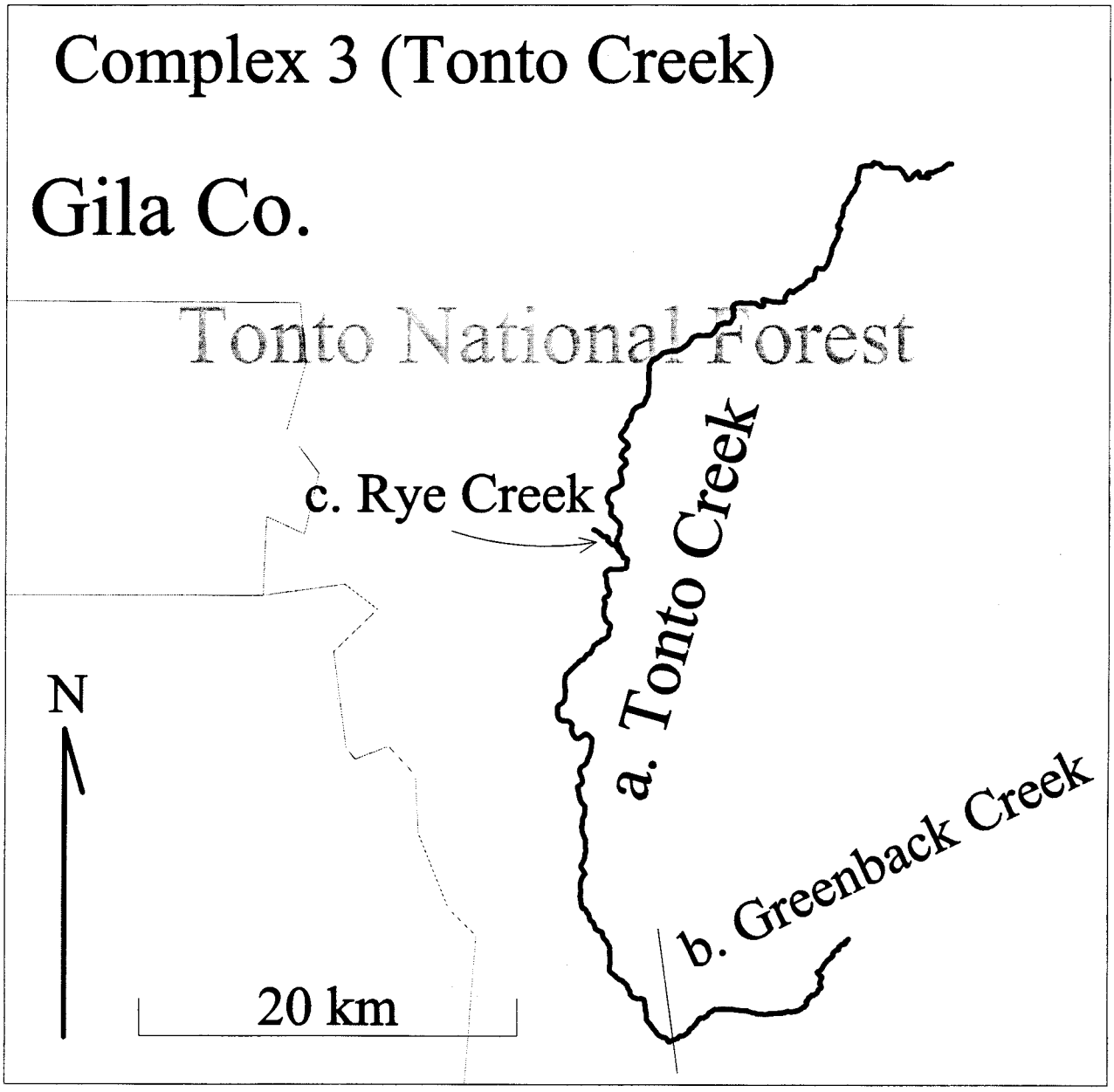
a. East Fork Black River for approximately 8.2 km (5.1 mi), extending from the confluence with the West Fork Black River in GSRM, T.4N., R.28E., SE1/4 Sec. 11 upstream to the confluence with Deer Creek in GSRM, T.5N., R.29E., NW1/4 Sec. 30.

b. North Fork of the East Fork Black River for approximately 18.0 km (11.2 mi), extending from the confluence of the East Fork Black River and Deer Creek in GSRM, T.5N., R.29E., NW1/4 Sec. 30 upstream to the confluence with an unnamed tributary flowing from the east in GSRM, T.6N., R.29E., center Sec. 30.

c. Boneyard Creek for approximately 2.3 km (1.4 mi), extending from the confluence with the North Fork of the East Fork Black River in GSRM, T.5N., R.29E., SW1/4 Sec. 5 upstream to the confluence with an unnamed tributary flowing from the east near Clabber City in GSRM, T.6N., R.29E., SE1/4 SE1/4 Sec. 32.

d. Coyote Creek for approximately 3.1 km (2.0 mi), extending from the confluence with the North Fork of the East Fork Black River in GSRM, T.5N., R.29E., NE1/4 Sec. 8 upstream to the confluence with an unnamed tributary flowing from the south in GSRM, T.5N., R.19E., NW1/4 Sec. 10.

e. West Fork Black River for approximately 10.3 km (6.4 mi), extending from the confluence with the East Fork Black River in GSRM, T.4N., R.28E., SE1/4 Sec. 11 upstream to the confluence with Hay Creek in GSRM, T.5N., R.28E., SE1/4, Sec. 19.

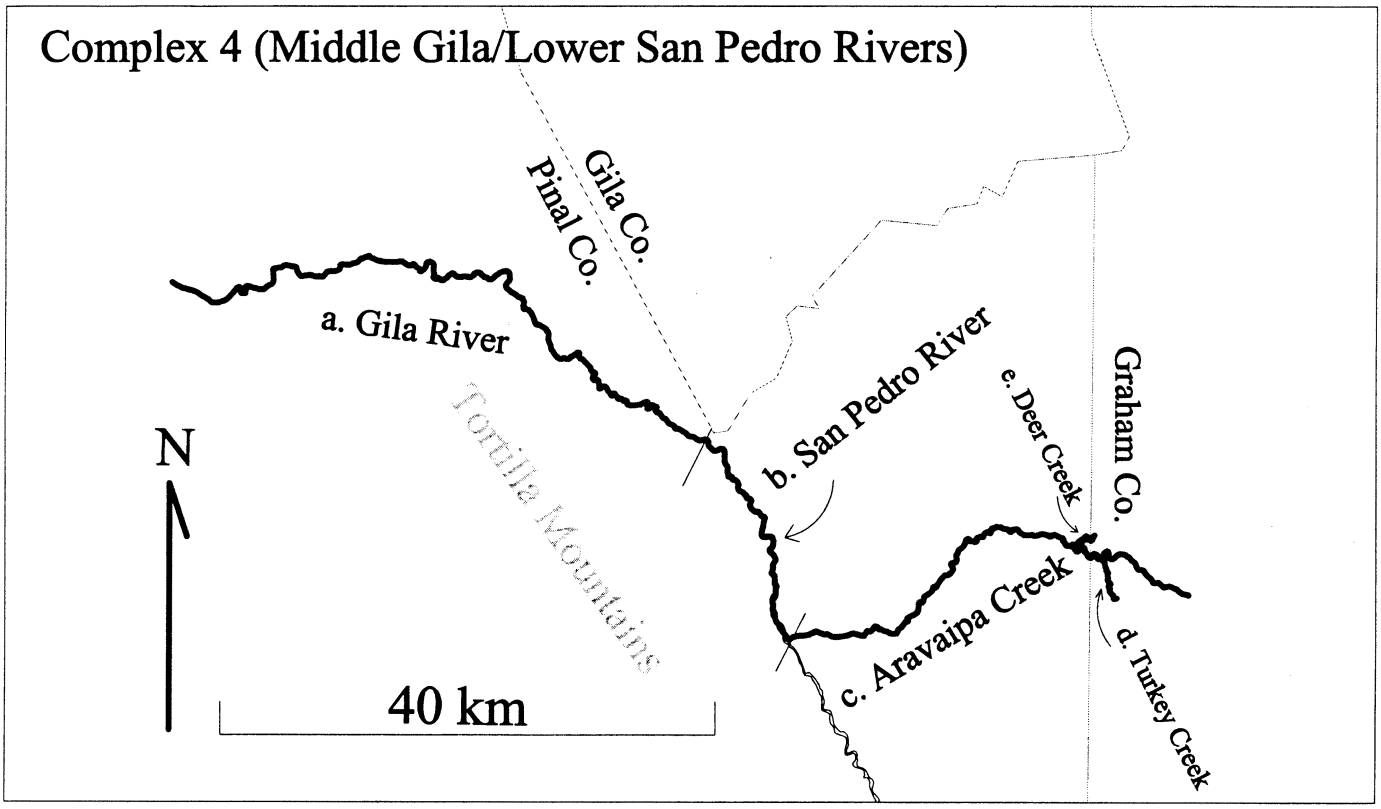


Complex 3. Gila County, Arizona

a. Tonto Creek for approximately 70.3 km (43.7 mi), extending from the confluence with Greenback Creek in GSRM, T.5N., R.11E., NW1/4 Sec. 8 upstream to the confluence with Haigler Creek in GSRM, T.10N., R.12E., NW1/4, Sec. 14.

b. Greenback Creek for approximately 13.5 km (8.4 mi), extending from the confluence with Tonto Creek in GSRM, T.5N., R.11E., NW1/4 Sec. 8 upstream to Lime Springs in GSRM, T.6N., R.12E., SW1/4 Sec. 20.

c. Rye Creek for approximately 2.1 km (1.3 mi), extending from the confluence with Tonto Creek in GSRM, T.8N., R.10E., NE1/4 Sec. 24 upstream to the confluence with Brady Canyon in GSRM, T.8N., R.10E., NE1/4 Sec. 14.



Complex 4. Graham and Pinal Counties, Arizona

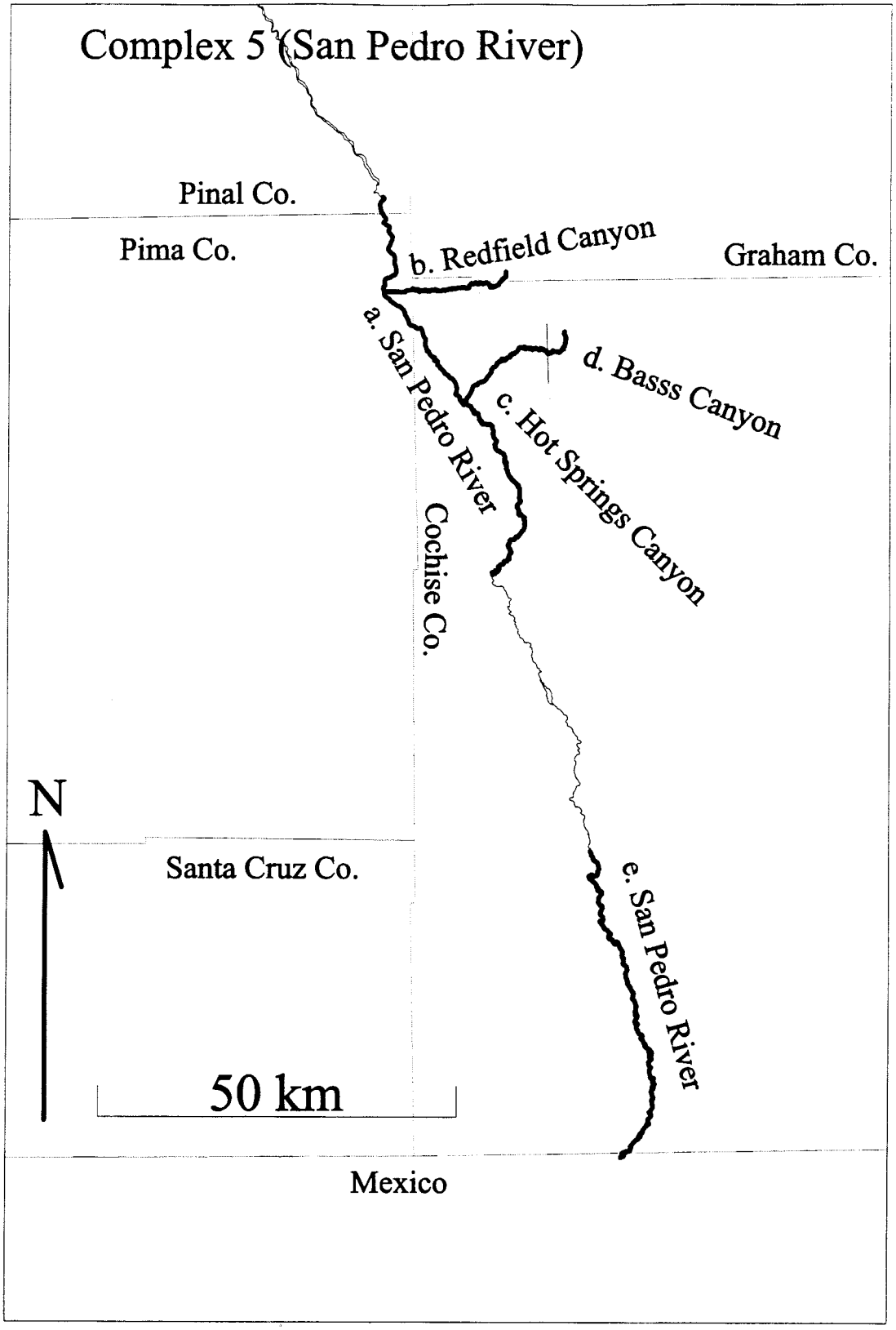
a. Gila River for approximately 62.8 km (39.0 mi), extending from Ashurst-Hayden Dam in GSRM, T.4S., R.11E., NW1/4 Sec. 8 upstream to the confluence with the San Pedro River in GSRM, T.5S., R.15E., center Sec. 23.

b. San Pedro River for approximately 21.4 km (13.3 mi), extending from the confluence with the Gila River in GSRM, T.5S., R.15E., center Sec. 23 upstream to the confluence with Aravaipa Creek in GSRM, T.7S., R.16E., center Sec. 9.

c. Aravaipa Creek for approximately 45.3 km (28.1 mi), extending from the confluence with the San Pedro River in GSRM, T.7S., R.16E., center Sec. 9 upstream to the confluence with Stowe Gulch in GSRM, T.6S., R.19E., SE1/4 of the NE1/4 Sec. 35.

d. Turkey Creek for approximately 4.3 km (2.7 mi), extending from the confluence with Aravaipa Creek in GSRM, T.6S., R.19E., center Sec. 19 upstream to the confluence with Oak Grove Canyon in GSRM, T.6S., R.19E., SW1/4 Sec. 32.

f. Deer Creek for approximately 3.6 km (2.3 mi), extending from the confluence with Aravaipa Creek in GSRM, T.6S., R.18E., SE1/4 of the SE1/4 Sec. 14 upstream to the boundary of the Aravaipa Wilderness at GSRM, T.6S., R.18E., east boundary Sec. 13.



Complex 5. Cochise, Graham, and Pima Counties, Arizona

a. San Pedro River for approximately 73.6 km (45.8 mi), extending from the confluence with Alder Wash in GSRM, T.10S., R.18E., SW1/4 Sec. 22 upstream to the confluence with Ash Creek in GSRM, T.16S., R.20E., SE1/4 Sec. 6.

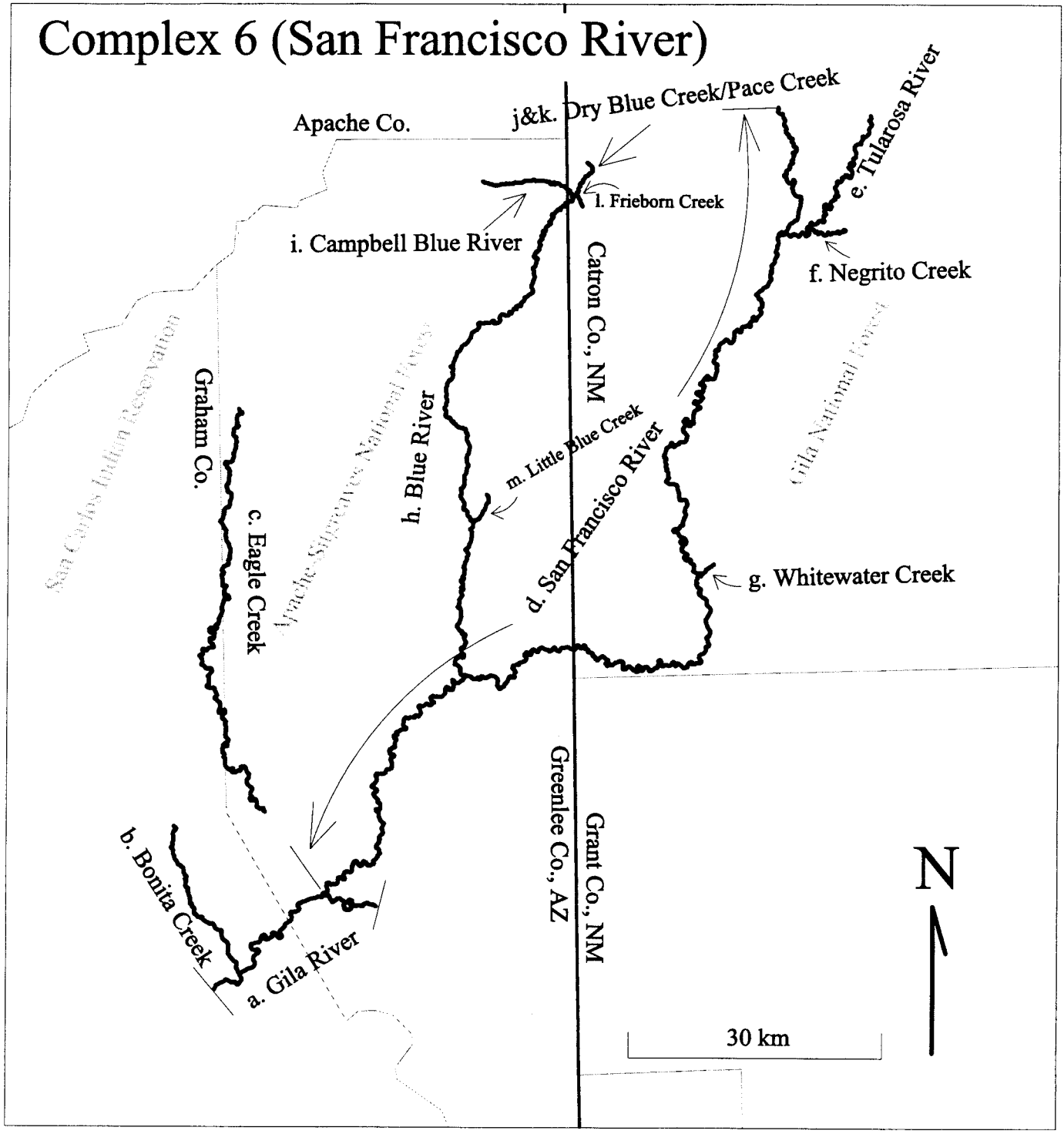
b. Redfield Canyon for approximately 22.3 km (13.9 mi), extending from the confluence with the San Pedro River in GSRM, T.11S., R.18E., SW1/4 Sec. 34 upstream to the confluence with Sycamore Canyon in GSRM, T.11S., R.20E., NW1/4 Sec. 28.

c. Hot Springs Canyon for approximately 19.1 km (11.8 mi), extending from the confluence with the San Pedro River in

GSRM, T.13S., R.19E., west center Sec. 23 upstream to the confluence with Bass Canyon in GSRM, T.12S., R.20E., NE1/4 Sec. 36.

d. Bass Canyon for approximately 5.1 km (3.2 mi), extending from the confluence with Hot Springs Canyon in GSRM, T.12S., R.20E., NE1/4 Sec. upstream to the confluence with Pine Canyon in GSRM, T.12S., R.21E., center Sec. 20.

e. San Pedro River for approximately 60.0 km (37.2 mi), extending from the confluence with the Babocomari River in the San Juan de las Boquillas y Nogales land grant upstream to the U.S. border with Mexico in GSRM, T.24S., R.22E., Sec. 19.



Complex 6. Graham and Greenlee Counties, Arizona and Catron County, New Mexico

a. Gila River for approximately 36.3 km (22.6 mi), extending from the Brown Canal diversion at the head of the Safford Valley in GSRM, T.6S., R.28E., SE1/4 Sec. 30 upstream to the confluence with Owl Canyon in GSRM, T.5S., R.30E., SW1/4 Sec. 30.

b. Bonita Creek for approximately 23.5 km (14.6 mi), extending from the confluence with the Gila River in GSRM, T.6S., R.28E., SE1/4 Sec. upstream to the confluence with

Martinez Wash in GSRM, T.4S., R.27E., SE1/4 Sec. 27.

c. Eagle Creek for approximately 72.8 km (45.2 mi), extending from the Phelps-Dodge diversion dam in GSRM, T.4S., R.28E., NW1/ 4 Sec. 23 upstream to the confluence of Dry Prong and East Eagle Creeks in GSRM, T.2N., R.28E., SW1/4 Sec. 20; but excluding lands of the San Carlos Apache Reservation.

d. San Francisco River for approximately 203.3 km (126.3 mi), extending from the confluence with the Gila River in GSRM, T.5S., R.29E., SE1/4 Sec. 21 upstream to the mouth of The Box canyon in NMPM, T.6S., R.19W., SW1/4 of the NW1/4 Sec. 2.

e. Tularosa River for approximately 30.0 km (18.6 mi), extending from the confluence with the San Francisco River in NMPM, T.7S., R.19W., SW1/4 Sec. 23 upstream to NMPM, T.6S., R.18W, south boundary Sec. 1.

f. Negrito Creek for approximately 6.8 km (4.2 mi), extending from the confluence with the Tularosa River in NMPM, T.7S., R.18W., SW1/4 of the NW1/4 Sec. 19 upstream to the confluence with Cerco Canyon in NMPM, T.7S., R.18W., west boundary Sec. 22.

g. Whitewater Creek for approximately 1.8 km (1.2 mi), extending from the confluence with the San Francisco River in NMPM, T.11S., R.20W., SE1/4 Sec. 27 upstream to the confluence with Little Whitewater Creek in NMPM, T.11S., R.20W., SE1/4 Sec. 23.

h. Blue River for approximately 81.9 km (51.0 mi), extending from the confluence with the San Francisco River in GSRM, T.2S., R.31E., SE1/4 Sec. 31 upstream to the confluence of Campbell and Dry Blue Creeks in NMPM, T.7S., R.21W., SE1/4 Sec. 6.

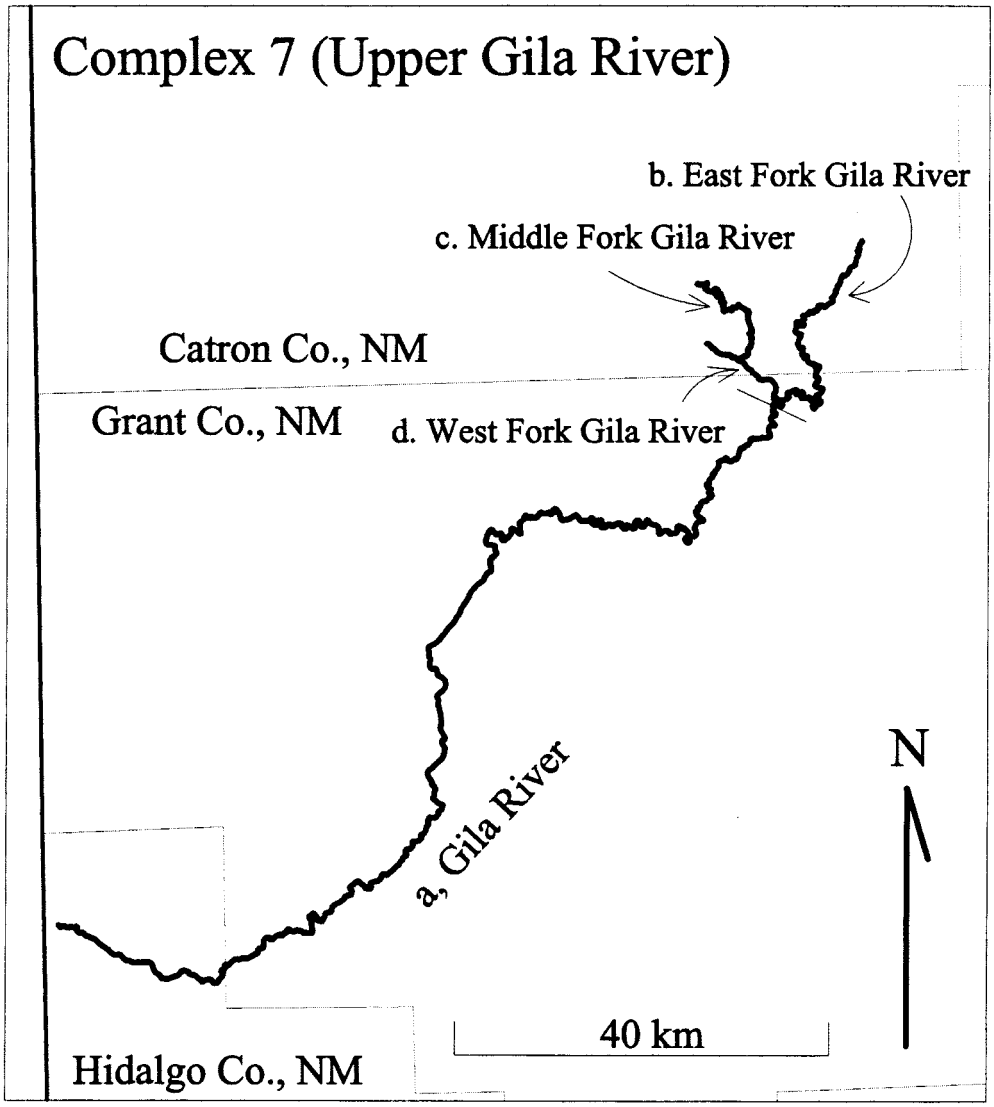
i. Campbell Blue Creek for approximately 13.1 km (8.2 mi), extending from the confluence with Dry Blue Creek in NMPM, T.7S., R.21W., SE1/4 Sec. 6 upstream to the confluence with Coleman Creek in GSRM, T.4 1/2 N., R.31E., SW1/4 of the NE1/4 Sec. 32.

j. Dry Blue Creek for approximately 4.7 km (3.0 mi), extending from the confluence with Campbell Blue Creek in NMPM, T.7S., R.21W., SE1/4 Sec. 6 upstream to the confluence with Pace Creek in NMPM, T.6S., R.21W., SW1/4 Sec.

k. Pace Creek for approximately 1.2 km (0.8 mi), extending from the confluence with Dry Blue Creek in NMPM, T.6S., R.21W., SW1/4 Sec. 28 upstream to the barrier falls in NMPM, T.6S., R.21W., SE1/4 Sec. 29.

l. Frieborn Creek for approximately 1.8 km (1.1 mi), extending from the confluence with Dry Blue Creek in NMPM, T.7S., R.21W., SW1/4 NW1/4 Sec. 5 upstream to the confluence with an unnamed tributary flowing from the south in NMPM, T.7S., R.21W., NE1/4 SW1/4 Sec. 8.

m. Little Blue Creek for approximately 4.5 km (2.8 mi), extending from the confluence with the Blue River in GSRM, T.1S., R.31E., center Sec. upstream to the mouth of a box canyon in GSRM, T.1N., R.31E., NE1/4 SE1/4 Sec. 29.



Complex 7. Grant and Catron Counties, New Mexico

a. Gila River for approximately 164.4 km (102.2 mi), extending from the confluence with Moore Canyon in NMPM, T.18S., R.21W., SE1/4 SW1/4 Sec. 31 upstream to the confluence of the East and West Forks of the Gila River in NMPM, T.13S., T.13W., center Sec. 8.

b. East Fork Gila River for approximately 42.1 km (26.1 mi), extending from the confluence with the West Fork Gila River in NMPM, T.13S., R.13W., center Sec. 8 upstream to the confluence of Beaver and Taylor Creeks in NMPM, T.11S., R.12W., NE1/4 Sec. 17.

c. Middle Fork Gila River for approximately 19.1 km (11.8 mi), extending from the confluence with the West Fork Gila River in NMPM, T.12S., R.14W., SW1/4 Sec. 25 upstream to the confluence with Brothers West Canyon in NMPM, T.11S., R.14W., NE1/4 Sec. 33.

d. West Fork Gila River for approximately 12.4 km (7.7 mi), extending from the confluence with the East Fork Gila River in NMPM, T.13S., R.13W., center Sec. 8 upstream to the confluence with EE Canyon in NMPM, T.12S., R.14W., east boundary of Sec. 21.

Dated: November 30, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–32019 Filed 12–7–99; 10:20 am]

BILLING CODE 4310–55–P

federal register

Friday
December 10, 1999

Part III

Environmental Protection Agency

40 CFR Part 761

Use Authorization for, and Distribution in Commerce of, Non-liquid Polychlorinated Biphenyls; Notice of Availability; Partial Reopening of Comment Period; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPPTS–66009F; FRL–6064–7]

RIN 2070–AD27

Use Authorization for, and Distribution in Commerce of, Non-liquid Polychlorinated Biphenyls; Notice of Availability; Partial Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of data availability; partial reopening of comment period.

SUMMARY: This action announces the availability of data that were submitted to EPA after the comment period closed for the December 6, 1994 proposal on the disposal of polychlorinated biphenyls (PCBs). This action also solicits additional information on the potential risks of exposure to PCBs, and the use and concentration of PCBs found in certain non-liquid PCB (NLPCB) applications. In the proposal of December 6, 1994, EPA solicited comment on a provision that would authorize the use of certain NLPCB applications (i.e., proposed § 761.30(q)). In addition to authorizing these uses, the proposed provision would have required compliance with several conditions (e.g., notification, marking, air monitoring and standard wipe tests, remediation, repair and/or removal, reporting and recordkeeping requirements). EPA is particularly interested in data regarding the PCB concentration and route(s) of exposure to PCBs found in the NLPCB applications that are the subject of this action and the associated risks of exposure. This action starts a 120–day data submission period which will be followed by an additional 90–day period for public comment on existing and new data submissions. Since EPA may rely on the data submissions that are generated as a result of this action to develop a final rule to authorize the use of these NLPCB applications, the Agency is providing the additional 90–day comment period for parties who are interested in reviewing and commenting on any of the existing or newly submitted data.

DATES: Data submissions must be received by EPA on or before April 10, 2000. Comments must be received by EPA on or before July 7, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–66009F in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Christine Augustyniak, Associate Director, Environmental Assistance Division (Mail Code 7408), Office of Pollution Prevention and Toxics, Rm. E–543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551, e-mail: TSCA-Hotline@epa.gov.

For technical information contact: Peggy Reynolds, Environmental Protection Agency, (Mail Code 7404), 401 M St., SW., Washington, DC 20460; telephone: (202) 260–3965, fax: (202) 260–1724, e-mail: reynolds.peggy@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be affected by this supplemental action if you own, use, process or distribute PCBs in commerce. Affected categories and entities include:

Category	Examples of Affected Entities
Industry	Electroindustry manufacturers, end-users of electricity and general contractors
Utilities and rural electric cooperatives	Electric power and light companies
Individuals, Federal, State, and Municipal Governments	Individuals and agencies which own, use, process and distribute PCBs in commerce

This table is not exhaustive, but lists the types of entities that could potentially be affected by this action. Other types of entities may also be interested in this action. To determine whether your entity is affected by this action, carefully examine the applicability criteria in Title 40 of the Code of Federal Regulations (CFR), part 761. If you have any questions regarding the applicability of this action to a particular entity, you should consult the applicable regulations, or the technical contact listed in ''FOR FURTHER INFORMATION CONTACT'' for the referenced final rule.

II. How Can I Get Additional Information, Copies of this Document, and Support Documents?

1. *Electronically*. You may obtain electronic copies of this document on the Internet from the EPA Home Page at http://www.epa.gov. An electronic copy of this document can be found under the ''Federal Register-Environmental Documents'' listing and the date of the publication of this document in the Federal Register (http://www.epa.gov/fedrgstr/EPA-TOX/1999/).

2. *In person*. The official record for this action, including the public version, has been established under docket control number OPPTS–66009F. The official record also includes all material and submissions filed under docket control number OPPTS–66009C, the record for the referenced final rule. The public version of the record, including printed, paper versions of any electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection in the TSCA Nonconfidential Information Center, Northeast Mall Rm. NE–B607, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

III. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is

imperative that you identify docket control number OPPTS–66009F in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in the East Tower Rm. G-099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is 202–260–7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov,'' or mail your computer disk to the address identified above. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments will also be accepted on standard computer disks in Wordperfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by the docket control number OPPTS–66009F. Electronic comments may also be filed online at many Federal Depository Libraries.

IV. How Should I Handle CBI Information That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI 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. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

V. What Does this Action Do?

This action announces the availability of data that were submitted to EPA after the comment period closed for the December 6, 1994 proposed rule (59 FR 62788) (FRL–4167–1). These data, as described below, are available for review and comment. This action also solicits additional information and comment on the potential risks of exposure to PCBs, and the use and concentration of PCBs found in the non-liquid PCB (NLPCB) applications that are the subject of this action. EPA proposed to amend its rules under the Toxic Substances Control Act (TSCA) to authorize the use of NLPCBs and their distribution in commerce, and to impose related information collection requirements. These issues had also been discussed in the Advanced Notice of Proposed Rulemaking (ANPR) of June 10, 1991 (56 FR 26740).

In advocating the removal of the conditions that were included in the December 6, 1994 proposal (e.g., notification, marking, air monitoring and standard wipe tests, remediation, repair and/or removal, reporting and recordkeeping requirements), some commenters submitted supplemental data that they claim showed that these NLPCB uses ''do not pose a risk above acceptable measures.'' However, EPA did not include this use authorization in the final rule which was published on June 29, 1998 (63 FR 35384) (FRL–5726–1) because insufficient data were available to enable the Agency to make the no unreasonable risk finding for many of the NLPCB uses. These data submissions, as well as an assessment of those data are available for inspection (see the listing of reference documents at Unit VIII. of this action) in the TSCA Public Docket Office. In the absence of data which could be used to determine whether a correlation exists between PCB bulk sample results and PCB surface contamination, several conservative assumptions were used in the draft risk document (see Ref. 23 ''Revised Draft, Assessment of Risks Associated with Proposed PCB Use Authorizations''). The Agency solicits public comment on these materials, and in particular, would appreciate comments, which are supported by data, regarding the draft risk analysis.

VI. What Non-liquid PCB Uses Are of Interest to EPA?

In the ANPR (June 10, 1991), EPA solicited information on unauthorized uses of NLPCBs in existing applications, and in the NPRM of December 6, 1994 (59 FR 62788), EPA solicited comments regarding a provision which would authorize the use of these NLPCBs. Items not authorized by the regulations but currently in use and identified as containing PCBs include, but are not limited to, some wool felt insulating materials, plastics, paint formulations, small rubber parts, adhesive tape, insulating materials used in electrical cabling, fluorescent light ballast potting materials, gaskets in heating, ventilation and air conditioning and other duct systems, caulking, coatings for ceiling tiles, flooring and floor wax/sealants, roofing and siding materials, adhesives, waterproofing compounds, anti-fouling compounds, fire retardant coatings, coal-tar enamel coatings for steel water pipe and underground storage tanks (i.e., American Water Works Association (AWWA) Standard C203 coal tar enamel), and any number of other chemical uses such as additives and plasticizers. The PCB contamination in these various products was reported to range from <1 to 688,498 parts per million (ppm). EPA is interested in data for those NLPCBs that do not satisfy the criteria for excluded PCB products, recycled PCBs, or inadvertently generated PCBs (i.e., generally historic uses of PCBs at concentrations of <50 ppm PCB) which are authorized by the current regulations. (For a detailed discussion, see 40 CFR 761.3 for the definitions of ''excluded PCB products'' and ''recycled PCBs.'' Also see the definition for ''excluded manufacturing processes'' at 40 CFR 761.3, the regulatory requirements for excluded manufacturing processes at 40 CFR 761.185 and 761.187, and the requirements for inadvertently generated PCBs at 40 CFR 761.193.)

A brief description of the non-liquid PCB uses which have been reported to EPA follows. Limited information regarding many of these products is contained in the NPRM (see 59 FR 62809–62811, December 6, 1994), as well as the comments and data that were submitted to EPA in response to the ANPR and NPRM (OPPTS-66009/66009A) and are summarized below. The following descriptions also reflect information gained by EPA over the course of implementing the PCB program. Additional non-liquid PCB products, when discovered, may also be covered by this use authorization. Therefore, information concerning unauthorized NLPCB uses which have not been identified above are also of interest and may be submitted to the Agency.

- *Insulation (e.g., wool felt, foam rubber and fiberglass) and sound-dampening materials.* These materials have been found to contain PCBs at concentrations which exceed 50 ppm. Wool felt and foam rubber insulation, as well as sound-dampening materials have been discovered in naval vessels and may include ships of all types, as well as nuclear submarine reactor

compartments. PCB concentrations were reported to range from <1 ppm to a high of 688,498 ppm (Ref. 15). Fiberglass insulation containing PCBs has been found in federally owned buildings at various concentrations. Bulk PCB concentrations were reported to range between <1 to 39,158 ppm, and surface contamination was reported to range between 7.5 to 188 micrograms per 100 square centimeters. All air samples were reported by the submitter as being below the analytical detection limit which was generally reported as 0.97 micrograms per cubic meter (Ref. 3). The use of PCB-contaminated fiberglass insulation may be widespread throughout the United States.

- *Plastics, small foam rubber and rubber parts, adhesive tape, and insulating materials used in electrical cabling.* PCBs may be in many of the components of electric cable at concentrations ranging from <1 ppm PCBs to 280,000 ppm PCBs (Refs. 15 and 16). In addition to electrical applications, these components may be in widespread use in marine and industrial applications. It is not clear whether PCB-containing cables would be found in residential settings.
- *Paint formulations.* During the 1950–1960 time frame, PCBs were added to paint formulations as drying oils (resins) and plasticizers or softening agents (liquids) in concentrations that range from 10–12% PCBs (100,000–120,000 ppm) to 20–30% PCBs (200,000–300,000 ppm). Concrete surfaces and equipment, as well as marine or waterproofing applications, used at Federal installations and in the manufacturing and industrial sectors may have painted surfaces contaminated with PCBs. Data provided to EPA indicate that PCBs have been found in dried paint at concentrations that range from <1 ppm to 97,000 ppm (Refs. 9 and 13).
- *Fluorescent light ballast potting materials.* Older fluorescent lamps (i.e., manufactured prior to 1978) may contain a small PCB Capacitor with 100% PCBs (i.e., 1,000,000 ppm) and/or petroleum-asphalt insulating material contaminated with PCBs (Ref. 6).
- *Gaskets in heating, ventilation and air conditioning (HVAC) and other duct systems.* It is not known whether this particular PCB application represents a widespread use. PCBs were discovered in older government buildings at concentrations of 18,900 ppm (Ref. 16); however, given the generic nature of the specifications for this material, these gaskets also may have been installed in commercial and industrial buildings. Additionally, ventilation system gasket materials made from processed cork that have been contaminated with PCBs at concentrations up to 6,400 ppm PCB have been found on naval vessels (Ref. 15).
- *Coatings for ceiling tiles.* Ceiling tiles contaminated with PCBs have been found at educational institutions with surface level PCB concentrations at a maximum of 53 ppm. However, the availability and dissemination in the marketplace of this material is not known.
- *Flooring and floor wax/sealants.* A commenter indicated that these materials have been found to contain PCBs; however, little else is known about specific PCB concentrations, application(s) or its availability and dissemination in the marketplace (Ref. 2).
- *Roofing and siding materials.* This material was manufactured and marketed worldwide as Robertson Protected Metal (RPM) and Galbestos to airlines, railroads, chemical plants, steel mills, mines, industrial/manufacturing facilities, and military facilities. PCB concentrations have been found to range from <2 ppm to 30,000 ppm (59 FR 62809).
- *Caulking and grout.* Very little is known about contaminated caulking and grout, their specific applications and dissemination in the marketplace. Samples of caulking that have been contaminated with PCBs have been found in a setting previously used as a school at a maximum concentration of 310,000 ppm PCBs (Ref. 12). Likewise, grout has been found in the joints and cracks of a water reservoir at 2,700 ppm PCB and on marine vessels at concentrations which range from <1 to 9,100 ppm PCB (Ref. 15) in the mess room and other onboard locations.
- *Waterproofing compounds, anti-fouling compounds, and fire retardant coatings.* These non-liquid uses of PCBs have been found in military, marine and other applications; PCB concentrations have been found as high as 59,000 ppm PCB.
- *Coal-tar enamel coatings for steel water pipe and underground storage tanks (i.e., AWWA C203 coal tar enamel).* This coating was previously approved for use by EPA pursuant to the Safe Drinking Water Act and has been used in some older Army, municipal and other water supply systems. The PCB concentration in this enamel may range from non-detect to 1,264 ppm (Refs. 11 and 26). EPA withdrew and thereby invalidated its list of acceptable drinking water products on April 7, 1990, and since that time, individual States have had the authority to regulate the sale and/or use of specific products. The Agency has never used its authority under TSCA to control the use of this indirect additive to a drinking water system.

VII. What Data Are Currently Available to EPA?

The following table provides information on the maximum PCB concentrations found in sample data that have been submitted to EPA. A review of this table, along with the criteria discussions that follow, will give you some indication of the NLPCBs that EPA could possibly authorize under the TSCA PCB regulations and the data that would be useful in order to evaluate the risks of exposure to PCBs associated with specific NLPCB uses. Unit VI. of this action provides additional guidance on the type of data that EPA needs to finalize a NLPCB use authorization.

Table 1.—Maximum PCB Concentrations From Sample Data

Material	Bulk Sample (mg/kg or ppm)	Standard Wipe Sample (µg/100 cm^2)	Air Sample (µg/cm^3)
Adhesive tape	1,400	No data available	No data available
Anti-fouling compounds	No data available	No data available	No data available
Caulking	310,000	No data available	No data available
Ceiling tiles	53	1.3	No data available

Table 1.—Maximum PCB Concentrations From Sample Data—Continued

Material	Bulk Sample (mg/kg or ppm)	Standard Wipe Sample (µg/100 cm^2)	Air Sample (µg/cm^3)
Cloth/paper insulating material	12,000	No data available	No data available
Coal-tar enamel coatings	1,264	No data available	No data available
Dried paint	63,300[1] 97,000[2]	2,560[1] 40[2]	No data available No data available
Fiberglass insulation[3]	39,158	188	<0.97
Fire retardant coatings	No data available	No data available	No data available
Flooring and floor wax/sealant	No data available	No data available	No data available
Fluorescent light ballast potting material	No data available	No data available	No data available
Foam rubber insulation	13,100	No data available	No data available
Foam rubber parts	1,092	No data available	No data available
Grout	9,100	No data available	No data available
Insulating materials in electric cable	280,000	No data available	No data available
Plastics/plasticizers	13,000	30[4]	No data available
Processed cork ventilation system gasket material	6,400	No data available	No data available
Roofing/siding material	22,000	No data available	No data available
Rubber parts	84,000	No data available	No data available
Sound-dampening material	No data available	No data available	No data available
Thermal insulation	73,000	No data available	No data available
Waterproofing compounds	No data available	No data available	No data available
Wool felt gaskets	688,498	No data available	No data available

[1] Non-degraded gray chlorinated rubber-based paint, Federal specification TT-P-912; PCBs added presumably to prevent brittleness.
[2] Semi-gloss paint; white and light blue, Amercoat 33HB with red Amercoat 86 primer.
[3] Athough sampling results for this material are available from the docket, these data were not available at the time the draft risk analysis was completed.
[4] Surface PCB concentration taken from wipe samples of plastic cable.

EPA's criteria for authorizing a NLPCB use. EPA will apply certain criteria to test data results when determining whether a material that is suspected of containing PCBs should be authorized for use. For instance, EPA has received some data that would not satisfy the criteria stated below. These data showed positive wipe sample results from contamination of the surface by PCBs. However, the bulk sample did not contain PCBs. This type of information is not useful for authorizing a NLPCB application. EPA believes these results indicate contamination due to a PCB spill rather than contamination associated with the manufacture of a product containing PCBs. EPA will not authorize the use of spilled PCBs. If you own items that have been contaminated as a result of a spill, you should either decontaminate or dispose of the item(s). The objective of the use authorization is to allow the continued use of those PCB-containing materials that do not pose an unreasonable risk. The use of these materials is currently unauthorized. Since some items currently being considered for the NLPCB use authorization may be contaminated with PCBs due to their proximity to PCB liquids, as opposed to being a PCB containing item, EPA intends to use the following criteria for determining whether materials suspected of containing PCBs should actually be considered for the NLPCB use authorization.

- If the bulk sample contains PCBs, but the wipe sample does not contain detectable levels of PCBs, then the PCBs have not significantly migrated from the material onto the surface. If there are no PCBs present on the surface, then it is assumed that no significant releases of PCBs to air are occurring. Therefore, air sampling would not be necessary. In

this situation, there would most likely be a low risk of exposure to PCBs, since PCBs are being released from the material at a low or non-existent rate. EPA could most likely authorize this use without some or all of the conditions listed in the proposal (see 59 FR 62857).

• If the bulk sample contains PCBs that are migrating out onto the surface, then the wipe sample will be expected to contain PCBs. Likewise, if the PCBs are being released from the surface into the air, then the air sample will be expected to contain PCBs. Note that the air sample will most likely contain PCBs at more dilute concentrations than those in the surface levels. EPA may or may not authorize this use, depending on the risk of exposure to PCBs.

• If neither the bulk nor the wipe sample contains PCBs, but the air sample does contain PCBs, then the PCBs are most likely from a source other than the material being tested. EPA cannot use these data to support a use authorization.

• If there are no PCBs in the bulk sample, but the wipe sample contains PCBs, then the PCBs are most likely from a spill rather than from the material being tested. EPA cannot use these data to support a use authorization.

The following chart provides a summary of the criteria that EPA will use to authorize the use of certain non-liquid PCBs.

Table 2.—Criteria for Authorizing the Use of NLPCBs

Bulk Sample	Wipe Sample	Air Sample	Possible Result
Contains PCBs	No PCBs	No PCBs or data are not available	PCBs not being released; possible authorization for use
Contains PCBs	Contains PCBs	Contains PCBs	PCBs are being released from the material; use authorization depends on risk levels
No PCBs	No PCBs	Contains PCBs	PCB contamination from another source
No PCBs	Contains PCBs	May or may not contain PCBs	PCBs due to a spill

In addition to the risk of developing cancer, PCBs also have significant non-carcinogenic effects, including neurotoxicity, reproductive and developmental toxicity, immune system suppression, liver damage, skin irritation, and endocrine disruption. These toxic effects should also be considered when assessing risk (Ref. 27). Therefore, in addition to evaluating the cancer risks associated with these NLPCB uses, the Agency intends to consider the potential non-cancer effects. It should be noted, however, that the Agency is currently conducting a reassessment of the non-carcinogenic effects of PCBs in order to determine whether the reference dose (RfD) factors for PCBs currently in the Agency's Integrated Risk Information System (IRIS) can be updated. It is possible, therefore, that the current RfDs may not be retained. Therefore, detection limits that are estimated using the current RfDs may not be low enough after the Agency's re-evaluation is complete. Thus, achieving the lowest possible detection limits is the recommended course of action in order to avoid reanalyzing samples if these RfDs are lowered.

VIII. What Data Does EPA Need?

EPA received some very useful data, but much of these data do not address the Agency's objective of assessing the risk of exposure due to the use of PCBs in a particular product. For example, wipe samples from the wall of a ship's engine room or air samples from living quarters cannot be used to evaluate the risk from air handling system gaskets when other potential sources of PCBs may be present on the ship or when no gaskets containing PCBs are present in the ship's handling system. It would be useful to have both surface results and bulk sampling results so that possible relationships between bulk and surface concentrations could be better defined. EPA also needs a better understanding of the individual sampling results including summary statistics such as range, median mean, standard deviation, and geometric mean in order to better determine if the results are representative of the sample population. Likewise, it is necessary to know the population characteristics with respect to PCB concentration, number of data points collected within a population, and how those data points represent the overall population of the items in use.

EPA would like to use the data to assess exposure via dermal contact and inhalation for most materials, as well as via incidental ingestion, as appropriate (e.g., paint chips). Surface samples are preferable for estimating dermal exposures because they reflect the PCB concentrations that individuals actually contact. EPA has data on a limited number of uses for which there are both bulk PCB concentrations and surface concentrations for the same material. Therefore, information on both bulk sample concentrations and wipe sample concentrations would be useful for defining the relationship between bulk and surface samples for use in dermal exposure assessments. Bulk sample data are also needed to assess incidental ingestion for some materials. EPA has no data on the volatilization or entrainment of PCBs from individual uses. This information would greatly facilitate the estimation of inhalation risk. Preliminary estimates were based on theoretical calculations, often employing very conservative approaches (Refs. 23 and 24). Also, the data EPA is currently using to assess dermal and inhalation risk for most uses is relatively old. Newer data would be useful in providing updated estimates.

As suggested earlier, EPA is interested in being able to detect cancer risks at or below 1×10^{-6} and non-carcinogenic hazards at or below a hazard index of 1. Because traditional sampling techniques may not have sufficiently low practical limits of quantitation (PQL) for EPA to determine that these NLPCB uses do not pose unreasonable risks, the approach to sampling may require much larger surface areas, much larger air volumes, or much more sensitive chemical analysis procedures than previously used. Consideration should also be given to achieving the lowest possible detection limits because of potential changes to the current RfDs.

Prior to finalizing a rule that would authorize the conditional use of these materials, the Agency is soliciting public review of and comment on the data that were submitted subsequent to

the official comment period for the December 6, 1994 NPRM. Data supporting a non-conditional use authorization for NLPCBs (i.e., a provision which would eliminate or minimize notification, marking, air monitoring and standard wipe test, remediation, repair and/or removal, reporting and recordkeeping requirements) may be submitted for the use of PCBs in any of the various applications identified above. A listing of the data elements that are required for this analysis is provided below. Please note that due to the uncertainty associated with updating the reference dose (RfD) for PCBs, the following discussions focus solely on the risk of developing cancer. In the absence of an updated RfD, the Agency is inclined to continue to use conservative risk assumptions for issues associated with the use of PCBs.

1. *Wipe sample data for each of the products (or classes of products, i.e., paint) for which use would be authorized*. Data should be collected from products that are known to contain PCBs (i.e., based on bulk sample results or from historic knowledge). Also, the detection limits for these materials should be sufficiently low to ensure that the cancer risks and non-carcinogenic hazards can be calculated down to less than 1×10^{-6} and below 1, respectively (note that the current RfDs for PCBs are likely to change), in order for the NLPCB use to be authorized. EPA recommends using the lowest achievable detection limit possible.

2. *Transfer data*. Information on the transfer of PCBs to human skin from the non-liquid PCBs listed in Table 1 of Unit V.

3. *Air monitoring data for each of the products (or classes of products, i.e., paint) for which use would be authorized*. Data should be collected from products that are known to contain PCBs (i.e., based on bulk sample results or from historic knowledge). Also, the detection limits for these materials should be sufficiently low to ensure that the cancer risks and non-carcinogenic hazards can be calculated down to less than 1×10^{-6} and below 1, respectively. EPA recommends using the lowest achievable detection limit possible.

Each product (or class of products, i.e., paint) sampled must contain high enough concentrations of PCBs in their bulk sample to be representative of the highest concentrations of PCBs in the product (or class of products, i.e., paint). For example, commenters provided information that paint formulations with 10-12% PCBs were recommended in the commercial formulation manuals. Therefore, EPA is especially interested in wipe sample and air monitoring data for products such as paints with bulk sample levels of 10-12% PCBs. In addition to the collected data, EPA requests the sampling plan that was used in collecting the data and a description of the quality assurance/quality control procedures that were applied to the data set.

In order to facilitate EPA's review of the data (i.e., bulk, standard wipe, and air sample results) on NLPCB containing materials, you should consider the following in order to judge the adequacy of your data submissions:

- Are the bulk and wipe samples of specific materials (i.e., uses) rather than of areas (e.g., engine room, mess deck/galley, berthing, pilot house, etc.)?
- Do you have corresponding samples (i.e., both bulk and wipe samples) for the specific materials?
- Did you collect air samples using procedures for chamber testing in order to differentiate PCBs that offgas from specific materials rather than from PCBs that are in ambient air?

EPA recommends using the lowest achievable detection limit possible so that cancer risks of 1×10^{-6} or non-cancer hazards of 1 may be detected. The detection limits at these risk levels may be estimated using cancer slope factors or reference doses for PCBs developed by EPA. The lower of the detection limits based on either cancer or non-cancer endpoints should be used to ensure that both types of effects could be detected.

If commenters and/or data submitters would like to submit comments or data anonymously, EPA will accept anonymous comments and data submissions (e.g., via a third party). However, it is important that EPA be able to contact someone should questions arise concerning the collection methodology, analytical procedures or other technical issues, even if through a third party.

IX. List of Reference Documents

The following documents are available in the combined docket for OPPTS–66009 (OPPTS–66009A, OPPTS–66009B and OPPTS–66009C). Documents identified with an asterisk were submitted to EPA after the official comment period for the proposed rule had closed. Since these data will be used in the Agency's decision making process, this listing is intended to ensure ample opportunity for public review and comment on pertinent documents.

1. Aluminum Company of America. Comments from Connie Glover Ritzert to the TSCA Nonconfidential Information Center, USEPA. Subject: Comments on Proposed Amendments to the TSCA PCB Regulations (59 FR 62788) - OPPS[sic]-66009A; FRL–4167–1 (May 3, 1995) (see C1-239, Table 3).

2. Consumers Power. Comments from William L. Beckman to the TSCA Nonconfidential Information Center, USEPA. Subject: Document Control Number OPPTS-66009A; FRL-4167-1, U.S. Environmental Protection Agency, December 6, 1994, Proposed Amendment to 40 CFR Part 761, Disposal of Polychlorinated Biphenyls (PCBs) (May 4, 1995) (see C1-179).

3. General Services Administration. Letter from David Spannbauer to Barry Breen, Federal Facilities Enforcement, USEPA, Subject: PCBs in Fiberglass Insulation in Federally Owned Buildings (1994) With Enclosures (see B3-032).*

4. General Services Administration. Letter from Casey Jones to Robert Harding, Section Chief, Toxic Substance Branch, USEPA, Subject: PCB Contamination at the Wallace F. Bennett Federal Building (date not discernible) With Enclosure (see B3-033).*

5. General Services Administration. Letter from Casey Jones to Kim Le, USEPA, Subject: Update on PCB Contaminated Insulation at the Wallace F. Bennett Federal Building (February 2, 1994) With Enclosure (see B3-034).*

6. Kominsky, John, NIOSH et al. ''Polychlorinated Biphenyl Contamination Resulting from Fluorescent Light Ballast Burnout (Draft).'' (April 14, 1986) (see C3-010).

7. Larcom, B.J.; Cline, J.M.; Merrill, E.A.; Jederberg, W.W.; Still, W.R. ''Risk Assessment of Polychlorinated Biphenyls On-board Navy Ships.'' A report prepared for the U.S. Navy. AL/OE-TR-1996-0153. WRAIR-TR-NMRI-96-72 (1996) (see C3-001).*

8. Parsons Engineering Science, Inc. ''Risk Review Paper, Evaluation of Existing Data for PCBs in Non-liquid Material (NLPCBs).'' A report prepared for Environmental Management Directorate, Robins Air Force Base, GA and Air Force Material Command Under USAF Contract No. F41624-94-D-8136, Delivery Order No. 0069 (1997) (see C3-002).*

9. Ropes Gray. Letter from Mark A. Greenwood to Mr. John H. Smith, USEPA. Subject: Response to Data Request on PCBs in Paint (July 21, 1998) (see C3-017).*

10. Ross, M.; Mangum, S.; Adema, C. ''Sampling and Analysis of Polychlorinated Biphenyls (PCBs) in Navy Ship Cables.'' A report prepared by the Naval Sea Systems Command, Code 05V, Report No. 9510, Ser. 6110/121 (1993) (see C1-107, Enclosure 11).

11. U.S. Army. Comments from Lewis D. Walker to Joseph S. Carra, USEPA. Subject: Comments on Proposed Polychlorinated Biphenyl Rule (May 2, 1995) (see C1-260).

12. U.S. Army Corps of Engineers, New England Division. ''Final Site Investigation Report for Campbell, Lyle, Stone and Otis Memorial Schools, Bourne, MA.'' A report prepared by Stone and Webster Environmental Technology and Services under Delivery Order 17, Contract No. DACW33-94-D-007 (1996) (see B3-001).*

13. U.S. Department of Energy. Letter from Thomas T. Traceski to Mr. John Melone, USEPA. Subject: Results of Testing at the Savannah River Site (October 29, 1988) (see C3-018).*

14. U.S. Department of Energy, Schenactady Naval Reactors Office. Letter from A.R. Seepo to Kim Tisa, USEPA Region 1. Subject: Documentation of Research Regarding Historical Uses of PCBs in Paint (April 19, 1995) (see C3-004).

15. U.S. Department of the Navy. Electronic submission; CD-ROM containing spreadsheets of PCB sample results, Excel for Office 97. Samples taken from various naval vessels; Files: PCBEPA01.XLS (see Sheet 1) and PCBEPA02.XLS (see Sheet 1) (see C3-019).*

16. U.S. Department of Transportation, Maritime Administration. Appendices from Report No. MA-ENV-820-96003; Appendix D, Sampling and Analysis (January 1997) and Appendix E, Survey of Ships and Materials (July 1997) (see B3-030).*

17. U.S. Department of Transportation, U.S. Coast Guard. Memorandum from Alan M. Steinman, Chief, Office of Health and Safety to Chief, Office of Engineering, Logistics and Development. Subject: Health Risk Evaluation of 65' WYTL and 82' WPB Class Cutters (January 18, 1996) With Enclosure: ''PCB Health Risk Evaluation of 65' WYTL and 82' WPB Class Cutters, Office of Health and Safety, Safety and Environmental Health Division, January 1996.'' (see B3-031).*

18. Versar Inc. Memo from Linda Phillips to Tony Baney, USEPA. Subject: Review of PCB Data for DOE Savannah River Site (November 13, 1998) (see B3-038).*

19. Versar Inc. Memo from Linda Phillips to Tony Baney, USEPA. Subject: Review of Ropes Gray Sampling Data (October 12, 1998) (see B3-037).*

20. Versar Inc. Memo from Linda Phillips to Peggy Reynolds, USEPA. Subject: Data Submissions for Risk Analysis for Authorized Uses of PCBs (December 8, 1998) (see B3-039).*

21. Versar Inc. Memo from Linda Phillips to John Smith, USEPA. Subject: Review of Air Force Risk Assessment (November 10, 1997) (see B3-035).*

22. Versar Inc. Memo from Linda Phillips to John Smith, USEPA. Subject: Review of U.S. Coast Guard PCB Risk Assessment (March 13, 1998) (see B3-036).*

23. Versar, Inc. ''Revised Draft, Assessment of Risks Associated with Proposed PCB Use Authorizations.'' A report prepared for the U.S. Environmental Protection Agency under Contract No. 68-W6-0023, Work Assignment No. III-3 (March 12, 1999) (see B3-040).*

24. Versar, Inc. ''Revised Preliminary Draft, Assessment of Risks Associated with Proposed PCB Use Authorizations.'' A report prepared for the U.S. Environmental Protection Agency under Contract No. 68-W6-0023, Work Assignment No. II-9 (October 14, 1997) (see E3-021).*

25. Westinghouse Savannah River Company. Letter from Nancy Lowry to David K. Hannemann, USEPA. Subject: Detailed Information on PCB Analyses of Painted Surfaces (May 28, 1997) (see C3-005).*

26. U.S. Army Corps of Engineers. Comments from Daniel R. Burns to the TSCA Nonconfidential Information Center, USEPA. Subject: Comments on the Proposed Rule on the Disposal of Polychlorinated Biphenyls (April 20, 1995) (see C1-139).

27. U.S. Environmental Protection Agency. PCBs: Cancer Dose-Response Assessment and Application to Environmental Mixtures, EPA/600/P-96/001 (September 1996) (See B3-026).*

28. Midwest Research Institute. ''Polychlorinated Biphenyl Analysis of Cable Samples from U.S. Navy Ships.'' A report prepared for the U.S. Environmental Protection Agency under Contract No. 68-DO-0137, Work Assignment No. 30 (August 14, 1992) (See B3-043)*.

List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: November 29, 1999.

Susan H. Wayland,

Deputy Assistant Administrator for Prevention, Pesticides and Toxic Substances.

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Part IV

Environmental Protection Agency

Superfund Redevelopment Pilot Program; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5606–5]

Superfund Redevelopment Pilot Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of proposals.

SUMMARY: In support of the Superfund Redevelopment Initiative, EPA will accept proposals for the Superfund Redevelopment Pilot Program from the date of this notice until March 10, 2000. EPA is selecting pilot projects that will help political subdivisions within a state (*e.g.,* cities, counties), hereafter referred to as local governments, enhance their involvement in the Superfund decision-making process. This involvement would focus primarily on assisting EPA in predicting future land uses for Superfund sites. However, EPA also will consider proposals for local governments to provide support to EPA with regard to land use related decisions made during the design or construction of a remedy where appropriate. ''Political subdivisions'' are units of government that meet their State's legislative definition of this term 40 CFR 35.6015(a)(31). Although this proposal is directed toward an expanded role for local governments, Federally recognized Indian tribes, states, as well as entities other than local governments that qualify as ''political subdivisions'' under State law are also eligible to apply.

There are a few aspects of the Superfund program that are essential to the successful cleanup of hazardous waste sites and will have continued importance under this initiative.

First, EPA and States have been working together to clean up hazardous waste sites under the Superfund law. States have a substantial role in the program including a significant role in the decision-making process and important cost sharing and long-term maintenance responsibilities at sites. When considering whether to list a site on the National Priorities List (NPL), EPA first makes efforts to determine the State's position on listing the site. EPA also consults with States on other issues related to contaminated sites within the State boundaries. States also provide valuable expertise about State legal requirements related to reuse of sites. In addition, many States have established funding programs for the reuse of contaminated properties. EPA views the continued involvement of State environmental agencies in the implementation of pilot projects as a key component to the success of this initiative.

In addition, the Agency's commitment to an ''enforcement first'' approach is essential to the successful cleanup of hazardous waste sites. Enforcement first means requiring the polluter, and not the taxpayer, to pay for the cleanup. At the same time, EPA retains the option to use the Trust Fund, with the intent to fully recover the Trust Fund expenditures, at sites where negotiations are unsuccessful at getting private parties to take necessary action. An effective Superfund program depends on a balanced approach that results in protective cleanups, ensures fairness to parties, and minimizes the impact on the Trust Fund. EPA, however, continues to consider private party responses the preferred approach for the majority of Superfund sites.

Thus, key principles of the Superfund Redevelopment Pilot Program are to continue to work in partnership with States at Superfund sites, and to implement the existing ''enforcement first'' approach and a strong cost recovery program. These principles will guide EPA's selection of pilots under the Superfund Redevelopment Initiative.

For each pilot, EPA intends to first offer potentially responsible parties (PRPs) the opportunity to finance or provide services to local governments or communities for specified activities such as site reuse assessment and planning, facilitating stakeholder involvement, and public outreach related to predicting future land uses to the extent relevant to response selection or development of design specifications. If EPA provides the funding, local governments will be offered several types of program assistance, including funds through cooperative agreements, the availability of personnel under the Intergovernmental Personnel Act (IPA), and access to facilitation services. Each pilot may receive up to $100,000 of EPA funding. EPA expects to select up to 40 pilot projects by May 2000. These will complement the 10 pilot projects begun in FY 1999.

DATES: In order to be considered, a local government must submit its completed proposal to EPA on, or before, 5 p.m., March 10, 2000. See the **SUPPLEMENTARY INFORMATION** section for more information on dates.

ADDRESSES: Mail proposals to Anne Hodge, Office of Emergency and Remedial Response (5204G), U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Proposals sent through registered mail should be sent to Ann Hodge, Office of Emergency and Remedial Response, 1235 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT:

To Obtain a Proposal Packet: Proposal packets can be obtained by calling the RCRA, Superfund & EPCRA Hotline at the following numbers.

Washington, DC Metro Area: (703) 412–9810

Outside Washington, DC Metro: (800) 424–9346

TDD for the Hearing Impaired: (800) 553–7672

Applicants can also obtain a proposal packet by contacting the Superfund Redevelopment Initiative Helpline at (888) 526–4321.

To Obtain a Proposal Packet on the Internet: If you want to obtain a proposal packet or an electronic proposal packet on the Internet, visit EPA's Web site at the following address on the World Wide Web: http://www.epa.gov/superfund/programs/recycle/proposal.htm. This address will connect you to the Superfund Redevelopment Pilot Program page.

Alternatively, applicants can use the following three-step process to reach the SR Pilot Program Web site:

1. Visit EPA's Web site at http://www.epa.gov and press the Search button;

2. In the Search box, type in ''Superfund Redevelopment Pilot Program'' and click on the Search button;

3. Scroll down the list of documents and click on the title ''Superfund Redevelopment Pilot Program'' to link to the correct page.

For more information on the electronic proposal packet, please read ''Obtaining the Proposal Packet on the Internet'' and ''Using the Electronic Version of the Proposal Guidelines'' in the proposal packet.

For Proposal Assistance: Additional information about the Pilot Program and the proposal guidelines can be obtained by contacting individuals from the EPA Regional Offices or by contacting the Superfund Redevelopment Initiative Helpline. For more information, see ''Where Can I Go for Further Information or Proposal Assistance'' under the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

What Is the Superfund Redevelopment Initiative?

The Superfund Redevelopment Initiative is EPA's nationally coordinated effort to facilitate the return of Superfund sites to productive use by selecting response actions consistent

with anticipated use to the extent possible. Future land use predictions are important in determining the appropriate extent of remediation because future use will affect the type and frequency of exposures that may occur at a site. The Superfund program's primary mission is the timely and efficient assessment, investigation, and cleanup of the nation's worst hazardous waste sites, with an emphasis on those sites on the NPL. EPA would like to build on current success in returning contaminated Superfund sites to commercial, ecological, recreational, residential, and public use. Working in partnership with States, tribes, other federal agencies, local governments, communities, land owners, lenders, developers, and parties potentially responsible for contamination, EPA has been developing cleanup plans that take into account the predicted future uses of the site, such as retail stores, office buildings, homes, golf courses, softball fields, and wetlands. Thus, Superfund sites, which were once thought to be unusable, are put back into productive use.

What Is the Superfund Redevelopment Pilot Program?

EPA will select pilots for the Superfund Redevelopment Pilot Program based on their potential to demonstrate how local government involvement can support the return of Superfund sites to productive uses. Local governments can facilitate the redevelopment of former sites, in part, by predicting future land uses and working with EPA, States, PRPs, and landowners as site cleanup decisions are made and implemented. In Spring of 1999, EPA identified 10 pilot sites based on preliminary eligibility and evaluation criteria. These targeted pilot sites will serve as models for the open proposal process.

To broaden the pilot program, EPA has developed an open proposal process, which is the focus of this **Federal Register** notice. During the open proposal process, eligible applicants may submit a project proposal outlining the types of activities they are proposing to conduct and the types of support they are requesting from EPA. Although this proposal is directed toward a new role for local governments, federally recognized Indian tribes and States are eligible to apply.

Many activities at Superfund sites are being undertaken by PRPs. Where there are viable PRPs, applicants who submit a proposal should be aware that EPA will seek to have the PRP fund such a project. References to ''EPA assistance'' in this document may result in EPA efforts to gain PRP assistance to involve the local government in decision making at the site. In addition, the activities funded by EPA under this initiative are considered cost recoverable, and EPA will make every effort to recover these costs.

A Proposal Evaluation Panel, composed of EPA Regional and Headquarters staff and possibly other federal employees, will review the merits of each proposal. EPA will announce successful pilot applicants by May 2000.

What Is the Statutory Basis for the Pilot Program?

Funding and services for the pilot program are authorized under section 104(d)(1), ''Cooperative Agreements,'' of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA or Superfund), 42 U.S.C. 9604(d)(1).

How Will EPA Determine if the Pilot Program Is Successful?

EPA will use the following measures to determine the success of the pilot program.

- A letter or report from the pilot awardee that describes the predicted reuse option for the site, including a summary of community and stakeholder input where appropriate.
- The selected response is consistent with the predicted reuse to the extent practicable.

What Are the Eligibility Criteria?

EPA must verify that the applicant and the project are both eligible for assistance under the Pilot Program. In order to be eligible for funding under this program, an applicant must be able to answer ''yes'' to the following three requirements:

4. The applicant is a political subdivision, a federally recognized Indian tribe, or a state.

5. The applicant is not a Potentially Responsible Party (PRP) at the site, or, if liable, the applicant has a signed settlement agreement with EPA.

6. The site within the applicant's jurisdiction is:

1. Proposed or final on the NPL (including sites where construction of the final cleanup remedy is not yet complete);

or

b. Not on the NPL, but significant involvement by EPA is planned at the site and a cleanup decision is still pending.

What Types of Activities May Receive Assistance?

EPA and CERCLA support meaningful participation of stakeholders in decisions regarding cleanup and potential future land uses at Superfund sites to the extent relevant to response selection, design and implementation. This initiative envisions awarding EPA assistance to perform the following types of activities at specific sites.

- *Reuse Assessments and Reuse Plans* to predict the reasonably anticipated future land use for the site that will provide valuable information that can guide the selection, design and implementation of a response action to be consistent with the predicted reuse to the extent allowed by law. These activities could be performed by in-house staff, consultants, or IPA personnel with the appropriate background and technical experience. Some of the reuse assessment and planning activities that can be conducted are found in EPA's guidance on considering land use in remedy selection (see section entitled ''Developing Assumptions on Future Land Use'' in *Land Use in the CERCLA Remedy Selection Process,* OSWER Directive No. 9355.7–04, available on the Web at http://www.epa.gov/swerosps/bf/ascii/land__use.txt).
- *Facilitation Services* by neutral parties who, by working with state and local government representatives, identify and involve community stakeholders in developing views on what future land uses might be reasonably predicted for the site.
- *Coordination* among different levels of government, community members, and organizations interested in natural resources (*e.g.*, recreational, sport hunting, and environmental organizations) or economic redevelopment to identify reasonably anticipated future uses of the land.
- *Public Outreach* including conducting public meetings, publishing newsletters and other informational material for the public, and developing strategies to educate and involve community leaders in predicting reuse or in the Superfund cleanup and decision-making processes related to a specific Superfund site. A community may wish to use facilitation services to accomplish this activity.
- *Training and Workshops* for community members and local governments on determining anticipated future land uses and the Superfund cleanup and remedy selection processes as related to a specific Superfund site (this may also include information on

the long-term implications and the need to maintain land use restrictions).

• *Support* for a Citizen Advisory Group to inform and advise the community in projecting reuse of a site. For example, support may include provision of meeting space, or newsletter development and distribution.

• *Other Technical Assistance* to the community from consultants, non-governmental organizations, and universities to study and develop recommendations on legal, fiscal, economic, and other issues as appropriate to project site reuse and support the selection of a remedy consistent with that reuse.

What Types of Activities Can Not Receive Assistance?

EPA can **not** provide funding for activities beyond the scope of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). For example, EPA can **not** provide funding for the following activities:

• Matching the site with prospective developers;

• Land acquisition;

• Developing master land use plans that extend beyond the boundaries of the Superfund site or that develop information unrelated to the issue of response selection, design, or implementation. (However, this initiative does not discourage coordination with area-wide land use planning efforts);

• ''Lobbying'' efforts by the recipient (*e.g.*, lobbying members of Congress, or lobbying for other federal grants, cooperative agreements or contracts). Federal assistance funds may not be used for fund-raising purposes such as identifying foundations and non-profit organizations to attract financing, or developing information unrelated to issues of response selection, design, or implementation;

• Matching any other federal funds without specific statutory authority; Activities carried out by the local government as part of their routine governmental functions (*e.g.*, zoning, eminent domain activities, or clearing title to the land); or

• Physical on-site development work or actual cleanup or other response activities associated with such cleanups (*e.g.*, landscaping).

What Types of Assistance Will EPA Provide?

EPA will offer pilot awardees an array of program assistance that will allow them to accomplish the activities outlined in their proposal. EPA will provide up to $100,000 in financial assistance and/or services to each pilot. Where there are viable PRPs, they will be asked to provide this support for the Pilot Program *in lieu* of EPA using the Trust Fund. The type and exact amount of assistance provided will depend on the specific activities to be performed. EPA will consult with local governments selected for the pilots about which of the following assistance will be provided. In order to qualify for assistance, local governments will be asked to provide detailed information on specific work products, schedules, and budgets related to their project activities. EPA will use cooperative agreements to provide monetary funds to local governments. In addition, local governments may also choose other types of assistance that would provide personnel or facilitation services. The types of assistance are as follows:

• *Cooperative Agreements:* These agreements will be used to award funds to local governments to support and stimulate their involvement in the remedy selection process. Cooperative agreements outline the terms and conditions to be met by the recipient of the funds. The support provided through this effort will relate to predicting potential future land use and designing and constructing remedies consistent with that use to the extent possible.

• *Intergovernmental Personnel Act (IPA) Assignments:* EPA may help fund a position for a federal agency expert who can work with the local government on predicting site reuse, which in turn will help provide information for the selection of a remedy that is consistent with that reuse to the extent possible. For example, an IPA assignment can be used to establish a position such as that of an expert advisor. Both the EPA and the local government play a role in funding an IPA assignment. The IPA assignment typically would be for one year, with the opportunity for an extension. For the purpose of these pilots, the assignment of a federal agency expert to a recipient community is part of the $100,000 cap.

• *Facilitation Services:* Through its facilitation services contract, EPA may provide the services of a professional facilitator to assist the local government in predicting the reasonably anticipated future uses for a site. Among other things, professional neutrals can help identify all the parties that have a stake in the outcome of a process, define the issues to be decided, clarify roles and responsibilities, air issues of environmental justice, draft procedural guidelines and agendas, and bring about partnerships among multiple parties with the goal of increasing the reliability of the prediction of reuse.

What Is the Proposal Evaluation Panel (PEP)?

To ensure a fair selection process, EPA will utilize a Proposal Evaluation Panel or PEP. The purpose of the PEP will be to ensure that the applicants and their projects are eligible and to assess the proposals against the evaluation criteria outlined below. The PEP's recommendations will be presented to EPA Senior Management for final selection.

What Are the Proposal Guidelines?

The proposal guidelines provide directions to potential applicants who wish to apply for a Superfund Redevelopment Pilot. The guidelines contain background information on the pilot program, outline the requirements for a successful proposal, and provide additional information related to the pilot program. Individuals within the EPA Regional offices are available to provide applicants with assistance in answering general questions about the proposal guidelines. Applicants are encouraged to contact and, if possible, meet with the EPA contact from their Region (see below).

What Should My Proposal Look Like?

A successful proposal should be clear, concise, and strictly follow the evaluation criteria. A successful proposal should also provide sufficient detail to support the determination that the proposed project best addresses the intent of the pilot program. Vague descriptions and repetition may reduce the rating. Proposals providing the best evidence of a true need, a quality project, a clear public benefit, and appropriate use of assistance will receive higher scores.

A successful proposal should contain informative answers for each of the following sections:

• Cover Page and Eligibility Assessment Worksheet, which provide basic information about the applicant and their eligibility;

• Site Summary, which provides a factual and historical context for the site, including site ownership;

• Project Overview, which outlines the applicant's general goals and specific objectives for the project; and

• Responses to the Evaluation Criteria, which are explained below.

What Are the Evaluation Criteria?

EPA has developed evaluation criteria in order to distinguish the most promising eligible candidates for the

pilot program. The evaluation criteria, outlined below, will be the primary basis on which EPA will consider an applicant's proposal for a pilot. The PEP will carefully review each proposal as to how well it addresses the evaluation criteria. Each criterion has been assigned a certain number of points, with the total number of points equal to 100. Proposals can obtain partial or full credit based on how they address each criterion. A successful proposal will obtain a high score in each of the following sections:

- Project Strategy (10 points);
- Budget (10 points);
- Superfund Cleanup Phase (10 points);
- Anticipated Role of Current/Future Site Owner (10 points);
- Community Involvement (20 points);
- Anticipated State Role (10 points); and
- Clearly Identified Value Added Through EPA Assistance (30 points).

How Do I Obtain a Proposal Packet?

Proposal packets can be obtained by calling the RCRA, Superfund & EPCRA Hotline at the following numbers.

Washington, DC Metro Area: (703) 412–9810

Outside Washington, DC Metro:(800) 424–9346

TDD for the Hearing Impaired: (800) 553–7672

A proposal packet can also be obtained by contacting the Superfund Redevelopment Initiative (SRI) Helpline, staffed by EPA support contractors, at (888) 526–4321.

Proposal packets contain the following documents:

(1) Superfund Redevelopment Pilot Program Overview;

(2) Pilot Program Proposal Guidelines;

(3) ''Using the Electronic Version of the Proposal Guidelines';

(4) ''Obtaining the Proposal Packet on the Internet'';

(5) Types of EPA Assistance Fact Sheet;

(6) International City/County Management Association Peer Match Information;

(7) EPA Contact Information Sheet;

(8) Summary of Targeted Pilots;

(9) Superfund Redevelopment Initiative Overview;

(10) Summaries of Superfund Redevelopment Activities; and

(11) Selected One-Page Summaries of Site Success Stories.

How Do I Obtain an Electronic Version of the Proposal Packet?

To further assist potential applicants, EPA has also developed an electronic version of the proposal packet. To access the proposal guidelines and proposal packet on the Internet, use either one of the following methods. The proposal guidelines and the proposal packet can be downloaded from EPA's Web site at the following address: http://www.epa.gov/superfund/programs/recycle/proposal.htm. This address will directly connect you to the Superfund Redevelopment Pilot Program Web page where you can obtain these documents.

Alternatively, applicants can use the following three-step process to connect to the Web site:

1. Visit EPA's Web site at http://www.epa.gov and press the Search button;

2. In the Search box, type in ''Superfund Redevelopment Pilot Program'' and click on the Search button; and

3. Scroll down the list of documents and click on the title ''Superfund Redevelopment Pilot Program'' to link to the correct page.

The electronic version of the proposal guidelines will provide applicants with the ability to download a suggested proposal format and other information and to enter the information directly using their computer. The proposal guidelines and suggested format are provided in both Corel WordPerfect version 9 and Microsoft Word version 97.

For more information on using the electronic proposal guidelines, please refer to the ''Using the Electronic Version of the Proposal Guidelines'' and ''Obtaining the Proposal Packet on the Internet'' in the proposal packet.

What Is the Deadline for Submitting Proposals?

The deadline for EPA receipt of proposals is 5 p.m., March 10, 2000. Proposals must have an official U.S. Postal Service postmark and arrive at EPA by this date and time.

Where Can I Go for Further Information or Proposal Assistance?

Applicants are encouraged to contact and, if possible, meet with EPA Regional officials to have any questions answered and to discuss the initiative. Individuals within the EPA Regional Offices are available to answer general questions and concerns about the Pilot Program and the proposal guidelines. However, EPA cannot provide information or assistance related to a specific site, or any other information that would give a particular applicant an advantage. Information about the Superfund process is also available. Applicants can contact their Region directly using the information provided in the following table:

REGIONAL CONTACT INFORMATION

Region	States	Address, Phone, Fax, E-Mail
EPA Region 1: Don Berger	CT, ME, MA, NH, RI, VT	1 Congress Street, Ste. 1100, Boston, MA 02114–2023. Phone (617) 918–1351 Fax (617) 918–1294; berger.don@epa.gov.
EPA Region 2: Dan Forger	NJ, NY, PR, VI	290 Broadway, 18th Floor, New York, NY 10007–1866. Phone (212) 637–4402 Fax (212) 637–4439; forger.dan@epa.gov.
EPA Region 3: Walt Graham	DE, DC, MD, PA, VA, WV	1650 Arch Street, Philadelphia, PA 19103–2029. Phone (215) 814–3146 Fax (215) 814–3002; graham.walter@epa.gov.
EPA Region 4: Mike Norman	AL, FL, GA, KY, MS, NC, SC, TN	Atlanta Federal Center, 61 Forsyth Street, S.W., Atlanta, GA 30303–8960. Phone (404) 562–8792 Fax (404) 562–8788; norman.michael@epa.gov.
EPA Region 5: Jim Mayka	IL, IN, MI, MN, OH, WI	77 West Jackson Boulevard, Chicago, IL 60604–3507. Phone (312) 353–9229 Fax (312) 886–4071; mayka.james@epa.gov.
EPA Region 6: Barbara Greenfield	AR, LA, NM, OK, TX	1445 Ross Avenue, Ste. 1200, Dallas, TX 75202–2733. Phone (214) 665–3111 Fax (214) 665–6660; greenfield.barbara@epa.gov.
EPA Region 7: Bob Feild	IA, KS, MO, NE	901 North Fifth Street, Kansas City, KS 66101. Phone (913) 551–7697 Fax (913) 551–7063; feild.robert@epa.gov.
EPA Region 8: Victor Ketellapper	CO, MT, ND, SD, UT, WY	999 18th Street, Suite 500, Denver, CO 80202–2466. Phone (303) 312–6578 Fax (303) 312–6897; ketellapper.victor@epa.gov.
EPA Region 9: Jim Hanson	AZ, CA, HI, NV, AS, GU	75 Hawthorne Street, San Francisco, CA 94105. Phone (415) 744–2237 Fax (415) 744–1796; hanson.jim@epa.gov.

REGIONAL CONTACT INFORMATION—Continued

Region	States	Address, Phone, Fax, E-Mail
EPA Region 10: Susan Morales	AK, ID, OR, WA	1200 Sixth Avenue, Seattle, WA 98101. Phone (206) 553–7299 Fax (206) 553–0124; morales.susan@epa.gov.

The Superfund Redevelopment Initiative (SRI) Helpline is also available to answer general questions related to the Superfund Redevelopment Initiative and the Pilot Program. The SRI Helpline number is (888) 526–4321. More information on the SRI Helpline can be found in the EPA Contact Information Sheet in the proposal packet.

In addition, State environmental officials may also provide valuable insight for an applicant. As noted earlier, States have an important role to fulfill at Superfund sites, and State governments may have complimentary programs that could further enhance a local government's proposal.

When Will EPA Announce Pilot Awards?

The EPA will announce pilots awardees in May 2000.

How Will EPA Notify Applicants of Awards?

If EPA receives a proposal by the deadline, the Agency will mail a letter to the applicant confirming that their proposal has been received and will be evaluated. After EPA chooses the pilot awardees from the group of eligible proposals, the Agency will mail a confirmation letter to the successful applicants informing them of their selection as a Superfund Redevelopment Pilot.

Applicants with proposals that are not selected will be informed in writing. EPA will explain why the PEP did not choose their proposals and will provide them with information about the potential for obtaining alternative sources of funding for determining the reasonably anticipated future uses at their sites.

What Will I Be Required To Do If I Am Chosen as a Pilot?

When appropriate, EPA will ask successful applicants to complete the paperwork and establish a formal cooperative agreement. This paperwork will include an application for federal assistance, budget sheets, certification forms, and other requirements as negotiated between EPA and the pilot awardee. The applicant may also need to provide legal opinions regarding authority to enter into the agreement and do the work, and information demonstrating that the applicant meets basic grants management and financial accountability requirements. If another type of assistance other than funds is involved, the applicant may also have to provide information for that agreement. The EPA Regional contact will work closely with the applicant to process and finalize the cooperative agreement and/or other assistance agreement.

Authority: Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) or Superfund, Section 104.

Dated: December 3, 1999.

Timothy Fields, Jr.,

Assistant Administrator.

[FR Doc. 99–32078 Filed 12–9–99; 8:45 am]

BILLING CODE 6560–50–U

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

S. 1418/P.L. 106–130

To provide for the holding of court at Natchez, Mississippi, in the same manner as court is held at Vicksburg, Mississippi, and for other purposes. (Dec. 6, 1999; 113 Stat. 1677)

H.R. 449/P.L. 106–131

Gateway Visitor Center Authorization Act of 1999 (Dec. 7, 1999; 113 Stat. 1678)

H.R. 592/P.L. 106–132

To designate a portion of Gateway National Recreation Area as ''World War Veterans Park at Miller Field''. (Dec. 7, 1999; 113 Stat. 1681)

H.R. 747/P.L. 106–133

Arizona Statehood and Enabling Act Amendments of 1999 (Dec. 7, 1999; 113 Stat. 1682)

H.R. 748/P.L. 106–134

To amend the Act that established the Keweenaw National Historical Park to require the Secretary of the Interior to consider nominees of various local interests in appointing members of the Keweenaw National Historical Park Advisory Commission. (Dec. 7, 1999; 113 Stat. 1684)

H.R. 791/P.L. 106–135

Star-Spangled Banner National Historic Trail Study Act of 1999 (Dec. 7, 1999; 113 Stat. 1685)

H.R. 970/P.L. 106–136

Perkins County Rural Water System Act of 1999 (Dec. 7, 1999; 113 Stat. 1688)

H.R. 1794/P.L. 106–137

Concerning the participation of Taiwan in the World Health Organization [WHO]. (Dec. 7, 1999; 113 Stat. 1691)

H.R. 2079/P.L. 106–138

Terry Peak Land Transfer Act of 1999 (Dec. 7, 1999; 113 Stat. 1693)

H.R. 2886/P.L. 106–139

To amend the Immigration and Nationality Act to provide that an adopted alien who is less than 18 years of age may be considered a child under such Act if adopted with or after a sibling who is a child under such Act. (Dec. 7, 1999; 113 Stat. 1696)

H.R. 2889/P.L. 106–140

To amend the Central Utah Project Completion Act to provide for acquisition of water and water rights for Central Utah Project purposes, completion of Central Utah project facilities, and implementation of water conservation measures. (Dec. 7, 1999; 113 Stat. 1698)

H.R. 3257/P.L. 106–

41 State Flexibility Clarification Act (Dec. 7, 1999; 113 Stat. 1699)

H.J. Res. 65/P.L. 106–142

Commending the World War II veterans who fought in the Battle of the Bulge, and for other purposes. (Dec. 7, 1999; 113 Stat. 1701)

S. 28/P.L. 106–143

Four Corners Interpretive Center Act (Dec. 7, 1999; 113 Stat. 1703)

S. 416/P.L. 106–144

To direct the Secretary of Agriculture to convey to the city of Sisters, Oregon, a certain parcel of land for use in connection with a sewage treatment facility. (Dec. 7, 1999; 113 Stat. 1708)

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