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Contents

Federal Register

Vol. 65, No. 130

Thursday, July 6, 2000

Agricultural Marketing Service
RULES
Pears (Bartlett) grown in—
Oregon and Washington, 41557–41559
PROPOSED RULES
Oranges, grapefruit, tangerines, and tangelos grown in—
Florida, 41608–41610

Agricultural Research Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41624

Agriculture Department
See Agricultural Marketing Service
See Agricultural Research Service
See Commodity Credit Corporation
See Farm Service Agency
See Food and Nutrition Service

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 41671
Grants and cooperative agreements; availability, etc.:
Human immunodeficiency virus (HIV)—
Youth-focused HIV/AIDS prevention program development and technical assistance collaboration with countries targeted by LIFE initiative, 41672–41674

Coast Guard
RULES
Ports and waterways safety:
Lake Washington, WA; safety zone, 41590–41591

Commerce Department
See Foreign-Trade Zones Board
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 41625

Commodity Credit Corporation
RULES
Loan and purchase programs:
Tobacco, 41551–41556

Commodity Futures Trading Commission
NOTICES
Foreign futures and options transactions:
Futures and option contracts, new listings by foreign boards of trade; policy statement, 41641–41642

Comptroller of the Currency
RULES
Corporate activities:
Equity investments, 41559–41560

Copyright Office, Library of Congress
PROPOSED RULES
Copyright office and procedures:
Sound recordings, public performance; service definition, 41612–41613
NOTICES
Digital audio recording technology royalties (1995-1998); distribution, 41737–41738

Education Department
RULES
Family Educational Rights and Privacy Act; implementation:
Postsecondary institutions; disclosure of student information to parents and public, 41851–41863
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 41643
Reports and guidance documents; availability, etc.:
Use of tests when making high-stakes decisions for students; resource guide for educators and policy makers, 41643

Employment and Training Administration
NOTICES
Federal-State unemployment compensation program:
Unemployment insurance program letters—
Federal unemployment insurance law; interpretation, 41729–41731

Employment Standards Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41731–41732

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Electricity export and import authorizations, permits, etc.:
New York Independent System Operator, Inc., 41643–41644
Grants and cooperative agreements; availability, etc.:
Commercialization assistance program, 41644–41645
Meetings:
Advisory Board, 41645–41646
Environmental Management Site-Specific Advisory Board—
Los Alamos National Laboratory, NM, 41646
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Business Commerce Solutions of Gaithersburg, MD, 41646–41647

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Polyether polyols production, etc.
Withdrawn, 41594
Air quality implementation plans; approval and promulgation; various States:
Virginia; correction, 41592–41594
Pesticides; emergency exemptions, etc.:
Tebufenozide, 41594–41601

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Fludioxonil, 41601–41603
PROPOSED RULES
Water pollution; effluent guidelines for point source categories:
Coal mining, 41613
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41653–41655
Grants and cooperative agreements; availability, etc.:
National Environmental Achievement Track Program, 41655–41663
Meetings:
Acute Exposure Guideline Levels for Hazardous Substances National Advisory Committee, 41663–41664
Environmental Financial Advisory Board, 41664
Pesticide chemicals that have a common mechanism of toxicity; cumulative risk assessment guidance, 41664–41665

Executive Office of the President
See Management and Budget Office

Farm Service Agency
RULES
Farm marketing quotas, acreage allotments, and production adjustments:
Tobacco, 41551–41556
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41625

Federal Aviation Administration
RULES
Class E airspace; correction, 41749
Federal airways, 41576–41577
IFR altitudes, 41578–41580

Federal Communications Commission
RULES
Common carrier services:
Fixed microwave services—
Removal of LMDS eligibility restrictions, 41603–41607
PROPOSED RULES
Common carrier services:
Cable Landing License Act—
International submarine cable systems; licensing streamlining, 41613–41620
Digital television stations; table of assignments:
Kentucky, 41620
New York, 41621–41622
Oregon, 41620–41621
Pennsylvania, 41621
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41665–41667
Submission for OMB review; comment request, 41667, 41668
Communication services:
Indian tribes; government-to-government relationship; establishment, 41668–41669

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 41669

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
Interstate natural gas pipelines—
Transportation services regulation, 41581
NOTICES
Electric rate and corporate regulation filings:
TXU (No. 5) Pty Ltd, et al., 41652
Environmental statements; availability, etc.:
Erie Boulevard Hydropower L.P., 41653
Hydroelectric applications, 41653
Applications, hearings, determinations, etc.:
Canyon Creek Compression Co., 41647
Cedar Breaks I, L.L.C., 41647
Columbia Gas Transmission Corp., 41647
Dominion Transmission, Inc., 41648–41649
El Paso Natural Gas Co., 41649
Natural Gas Pipeline Co. of America, 41649–41650
Newark Bay Cogeneration Partnership, L.P., 41650
Trailblazer Pipeline Co., 41650–41651
Transwestern Pipeline Co., 41651
Williston Basin Interstate Pipeline Co., 41651
Wyoming Interstate Co., Ltd., 41651

Federal Housing Finance Board
RULES
Federal home loan bank system:
Bank directors election process, 41560–41576

Federal Maritime Commission
NOTICES
Agreements filed, etc., 41669
Investigations, hearings, petitions, etc.:
David P. Kelly and West Indies Shipping and Trading, Inc., 41669–41670

Federal Railroad Administration
RULES
Railroad Rehabilitation and Improvement Financing Program; loans and loan guarantees, 41837–41849

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 41670
Formations, acquisitions, and mergers, 41670
Formations, acquisitions, and mergers, 41670–41671

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
Critical habitat designations—
Piping plover; Great Lakes breeding population, 41811–41835
Piping plover; wintering populations along Gulf and Atlantic coasts, 41781–41812
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41709–41718
Environmental statements; availability, etc.:
Edwin B. Forsythe and Cape May National Wildlife Refuges, NJ, 41718–41719
Incidental take permits—
Beaver Creek Track, OR; bald eagle, 41719–41720
Meetings:
Aquatic Nuisance Species Task Force Ballast Water and Shipping Committee, 41721

Food and Drug Administration
RULES
Animal drugs, feeds, and related products:
Bacitracin methylene disalicylate and Fenbendazole, 41589–41590
Fenbendazole, 41588
Furazolidone aerosol powder, 41587–41588
Color additives:
Haematoccus algae meal, 41581–41584
Phaffia yeast, 41584–41587
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41674–41676
Submission for OMB review; comment request, 41676–41680
Meetings:
FDA/Industry Exchange Workshops on Scale-Up and Other Postapproval Changes (SUPAC); workshops, 41680–41681

Food and Nutrition Service
RULES
Food stamp program:
Food stamp recipient claims; establishment and collection standards, 41751–41780

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Tenessee
Brother Industries (U.S.A.) Inc.; postage franking machines and electronic business equipment, 41625–41626

General Services Administration
NOTICES
Meetings:
National Travel Conference 2000; changes to Federal travel regulation, 41671

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Health Resources and Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41681–41682

Housing and Urban Development Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41688–41708

Indian Affairs Bureau
NOTICES
Tribal-State Compacts approval; Class III (casino) gambling:
Augustine Band of Mission Indians, CA, 41721

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See Reclamation Bureau
NOTICES
Reports and guidance documents; availability, etc.:
Endangered Species Act and Indian Water Rights Working Group; report and recommendations, 41709

Internal Revenue Service
PROPOSED RULES
Income taxes:
Basis adjustments among partnership assets; hearing cancellation, 41610
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41747–41748

International Trade Administration
NOTICES
Antidumping:
Armid fiber formed of poly para-phenylene terephalamide from—
Netherlands, 41626–41629
Steel butt-weld pipe fittings from—
Taiwan, 41629–41633

International Trade Commission
NOTICES
Import investigations:
Bulk acetylsalicylic acid (aspirin) from—
China, 41727
Cigarettes and packaging, 41727–41728
Sparklers from—
China, 41728
Stainless steel bar from—
Various countries, 41728–41729

Labor Department
See Employment and Training Administration
See Employment Standards Administration
See Occupational Safety and Health Administration
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41721–41722
Submission for OMB review; comment request, 41722–41723
Mineral commodity pricing; policy statement, 41724–41726
Realty actions; sales, leases, etc.:
Idaho, 41726

Library of Congress
See Copyright Office, Library of Congress

Management and Budget Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 41741

National Institute of Standards and Technology
NOTICES
Committees; establishment, renewal, termination, etc.:
Advanced Technology Program Advisory Committee, 41633–41634
Grants and cooperative agreements; availability, etc.:
Manufacturing extension partnership program, 41634–41638

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 41682
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 41683
National Institute of Environmental Health Sciences, 41683
National Institute of Mental Health, 41684
National Institute on Drug Abuse, 41682–41683
Scientific Review Center, 41684–41687

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
Magnuson-Stevens Act provisions—
Domestic fisheries; exempted fishing permits, 41622–41623
NOTICES
Endangered and threatened species:
Recovery plans—
Johnson's seagrass; correction, 41638
Meetings:
North Pacific Management Council, 41638

National Science Foundation
NOTICES
Antarctic Conservation Act of 1978; permit applications, etc., 41738

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Northeast Nuclear Energy Co. et al., 41738–41739
Tennessee Valley Authority, 41739–41741

Occupational Safety and Health Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request
Correction, 41749

Office of Management and Budget
See Management and Budget Office

Patent and Trademark Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 41638–41639
Meetings:
Intellectual Property Symposium of the Americas; Protecting intellectual property in the digital age, 41639–41641

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Fidelity Mutual Life Insurance Co. (In Rehabilitation) (FML), et al., 41732–41737

Pension Benefit Guaranty Corporation
PROPOSED RULES
Single-employer plans:
Allocation of assets—
Title IV aspects of cash balance plans with variable indices, 41610–41612

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Resources and Services Administration
See National Institutes of Health

Reclamation Bureau
NOTICES
Meetings:
Bay-Delta Advisory Council, 41726–41727

Small Business Administration
NOTICES
Business and disaster assistance loans; sale and liquidation of collateral, 41741–41743
Disaster loan areas:
Louisiana, 41743
Meetings:
Regulatory Fairness Board—
New England States, 41743
Southeastern States, 41743

Social Security Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41743–41744
Meetings:
Ticket to Work and Work Incentives Advisory Panel, 41744

State Department
NOTICES
Meetings:
Labor Diplomacy Advisory Committee, 41744–41745
Organization, functions, and authority delegations:
Assistant Administrator for Latin America et al., 41745

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Central Gulf Railway, Inc., 41745
International Paper Co., 41745–41746

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Railroad Administration
See Surface Transportation Board

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 41746–41747
Meetings:
Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service, 41747

Separate Parts In This Issue

Part II
Department of Agriculture, Food and Nutrition Service, 41751–41780

Part III
Department of Interior, Fish and Wildlife Service, 41781–41835

Part IV
Department of Transportation, Federal Railroad Administration, 41837–41849

Part V
Department of Education, 41851–41863

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
272.....41752
273.....41752
723.....41551
931.....41557
1464.....41551
Proposed Rules:
905.....41608

12 CFR
5.....41559
915.....41560

14 CFR
71.....41576
95.....41578

18 CFR
284.....41581

21 CFR
73 (2 documents) 41581, 41584
524.....41587
556.....41588
558.....41589

26 CFR
Proposed Rules:
1.....41610

29 CFR
Proposed Rules:
4022.....41610
4044.....41610

33 CFR
165.....41590

34 CFR
99.....41852

37 CFR
Proposed Rules:
201.....41612

40 CFR
52.....41592
63.....41594
180 (2 documents) 41594, 41601
Proposed Rules:
434.....41613

47 CFR
101.....41603
Proposed Rules:
1.....41613
73 (4 documents) 41620, 41621

49 CFR
260.....41838

50 CFR
Proposed Rules:
17 (2 documents) 41782, 41812
600.....41622

Rules and Regulations

Federal Register
Vol. 65, No. 130
Thursday, July 6, 2000

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.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN 0560–AF51

1999 Marketing Quotas and Price Support Levels for Fire-Cured (Type 21), Fire-Cured (Types 22–23), Dark Air-Cured (Types 35–36), Virginia Sun-Cured (Type 37), and Cigar-Filler and Binder (Types 42–44 and 53–55) Tobaccos

AGENCIES: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to codify the national marketing quotas and price support levels for the 1999 crops for several kinds of tobacco announced by press release on March 1, 1999.

In accordance with the Agricultural Adjustment Act of 1938, as amended (the 1938 Act), the Secretary determined the 1999 marketing quotas to be as follows: fire-cured (type 21), 2.6 million pounds; fire-cured (types 22–23), 41.4 million pounds; dark air-cured (types 35–36), 12.8 million pounds; Virginia sun-cured (type 37), 171,000 pounds; and cigar-filler and binder (types 42–44 and 53–55), 4.5 million pounds.

Quotas are necessary to adjust the production levels of certain tobaccos to more fully reflect supply and demand conditions, as provided in the 1938 Act.

In accordance with the Agricultural Act of 1949, as amended (the 1949 Act), the Secretary determined the 1999 levels of price support to be as follows (in cents per pound): fire-cured (type 21), 155.9; fire-cured (types 22–23), 171.6; dark air-cured (types 35–36), 148.1; Virginia sun-cured (type 37), 138.0; and cigar-filler and binder (types 42–44 and 53–55), 123.8.

EFFECTIVE DATE: March 1, 1999.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Tobacco and Peanuts Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250–0514, telephone 202–720–5346, e-mail address Robert Tarczy@wdc.fsa.usda. Copies of the cost-benefit assessment prepared for this rule can be obtained from Mr. Tarczy.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies, are Commodity Loans and Purchases—10.051.

Executive Order 12988

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

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Farm Service Agency (FSA) nor the Commodity Credit Corporation (CCC) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject of these determinations.

Paperwork Reduction Act

The amendments to 7 CFR parts 723 and 1464 set forth in this final rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. chapter 35.

Unfunded Federal Mandates

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Statutory Background

This final rule is issued pursuant to the provisions of the 1938 Act and the 1949 Act.

On March 1, 1999, the Secretary determined and announced the national marketing quotas and price support levels for the 1999 crops of fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar-filler and binder (types 42–44 and 53–55) tobaccos. A number of related determinations were made at the same time which this final rule affirms. On the same date, the Secretary also announced that a referendum would be conducted by mail with respect to cigar-filler and binder (types 42–44 and 53–55) tobacco.

During March 15–19, 1999, eligible producers of cigar-filler and binder (types 42–44 and 53–55) tobacco voted in a referendum to determine whether such producers approved marketing quotas for the 1999, 2000, and 2001 marketing years (MY) for this tobacco. Of the producers voting, 77.7 percent favored marketing quotas for cigar-filler and binder (types 42–44 and 53–55) tobacco. Accordingly, quotas and price support for cigar-filler and binder (types 42–44 and 53–55) tobacco are in effect for the 1999 through 2001 MYs.

In accordance with section 312 of the 1938 Act, for tobaccos other than flue-cured tobacco and burley tobacco, the Secretary of Agriculture is required to proclaim not later than March 1 of any MY a national marketing quota for those tobaccos for which marketing quotas have been approved in the prior three years. There is a vote on quotas for each kind in a 3-year cycle. For cigar-filler and binder (types 42–44 and 53–55) tobacco, the 1998 MY was the last year of 3 consecutive years of quota. Accordingly, marketing quotas for cigar-filler and binder (types 42–44 and 53–55) were proclaimed for each of the 3 MYs beginning October 1, 1999; October 1, 2000, and October 1, 2001, but subject to producer approval. As indicated, cigar-filler and binder (types 42–44 and 53–55) producers approved quotas in the referendum. Quotas for the other tobaccos covered by this notice were approved in referenda which are still effective.

Because of producer approval of quotas, sections 312 and 313 of the 1938 Act required that the Secretary also announce the reserve supply level and the total supply of fire-cured (type 21), fire-cured (types 22–23), dark air-cured (types 35–36), Virginia sun-cured (type 37), and cigar filler and binder (types 42–44 and 53–55) tobaccos for the MY beginning October 1, 1998. The Secretary also announced the amounts of the national marketing quotas, national acreage allotments, national acreage factors for apportioning the national acreage allotments (less reserves) to old farms, and the amounts of the national reserves and parts thereof available for (1) new farms and (2) making corrections and adjusting inequities in old farm allotments.

Under the 1949 Act, price support is required to be made available for each crop of a kind of tobacco for which marketing quotas are in effect or for which marketing quotas have not been disapproved by producers. With respect to the 1999 crops of the kinds of tobacco that are the subject of this notice, the respective maximum levels of price support for these kinds of tobacco is determined in accordance with section 106 of the 1949 Act. Announcement of the price support levels for these five kinds of tobacco are normally made before the planting seasons. Under the provisions of Section 1108 (c), of Pub. L. No. 99–272, the price support level announcements do not require prior rulemaking. For the 1999 crops, the price support announcements were made on March 1, 1999, at the same time the quota announcements were made. Quota and price support determinations for burley and flue-cured tobacco are made separately and are the subject of separate notices.

Statutory Provisions

Section 312(b) of the 1938 Act provides, in part, that the national marketing quota for a kind of tobacco is the total quantity of that kind of tobacco that may be marketed such that a supply of such tobacco equal to its reserve supply level is made available during the MY.

Section 313(g) of the 1938 Act provides that the Secretary may convert the national marketing quota into a national acreage allotment for apportionment to individual farms. Since producers of these kinds of tobacco generally produce considerably less than their respective national acreage allotments allow, a larger quota is necessary to make available production equal to the reserve supply level. Further, under section 312 (b) of the 1938 Act, the amount of the national marketing quota may, not later than the following March 1, be increased by not more than 20 percent over the straight formula amount if the Secretary determines that such increase is necessary in order to meet market demands or to avoid undue restriction of marketings in adjusting the total supply to the reserve supply level.

Section 301(b)(14)(B) of the 1938 Act defines ''reserve supply level'' as the normal supply, plus 5 percent thereof, to ensure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty. ''Normal supply'' is defined in section 301(b)(10)(B) of the 1938 Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic use and 65 percent of a normal year's exports as an allowance for a normal year's carryover.

Normal year's domestic consumption is defined in section 301(b)(11)(B) of the 1938 Act as the average quantity produced and consumed in the United States during the 10 MYs immediately preceding the MY in which such consumption is determined, adjusted for current trends in such consumption. Normal year's exports is defined in section 301(b)(12) of the 1938 Act as the average quantity produced in and exported from the United States during the 10 MYs immediately preceding the MY in which such exports are determined, adjusted for current trends in such exports.

Also, under section 313(g) of the 1938 Act, the Secretary is authorized to establish a national reserve from the national acreage allotment in an amount equivalent to not more than 1 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting for inequities, and for establishing allotments for new farms. The Secretary has determined that the national reserve, noted herein, for the 1999 crop of each of these kinds of tobacco is adequate for these purposes.

The Proposed Rule

On February 26, 1999, a proposed rule was published in the **Federal Register** (64 FR 9452) in which interested persons were requested to comment with respect to setting quotas for the tobacco kinds addressed in this notice.

Discussion of Comments

Fourteen written responses were received during the comment period which ended March 1, 1999. A summary of these comments by kind of tobacco follows:

(1) *Fire-cured (type 21) tobacco.* Two comments were received, recommending no change in 1999 quotas.

(2) *Fire-cured (types 22–23) tobacco.* Five comments were received. Four recommended a five percent deduction in 1999 quotas, while one other recommended a 10 percent decrease.

(3) *Dark air-cured (types 35–36) tobacco.* Five comments were received. Four recommended a 10 percent increase in the quota, while one favored a five percent increase.

(4) *Virginia sun-cured (type 37) tobacco.* Two comments were received, recommending no change in quota.

(5) *Cigar-filler and binder (types 42–44 and 53–55) tobacco.* No comments were received.

Quota and Related Determinations

The tobacco program is, through assessments, operated at no net cost to taxpayers other than the costs common to all price support operations. Accordingly, producer comments are given considerable weight in this review. Based on a review of the comments received and the latest available statistics of the Federal Government, which appear to be the most reliable data available, the following determinations were made for the five subject tobacco kinds:

(1) Fire-Cured (Type 21) Tobacco

The average annual quantity of fire-cured (type 21) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1998 MY was approximately 19.3 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1998 MY was 2.0 million pounds (farm sales weight basis). Both domestic use and exports have trended downward. Because of these considerations, a normal year's domestic consumption has been determined to be 0.7 million pounds, and a normal year's exports have been determined to be 1.5 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 4.6 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1998, of 2.4 million pounds. The 1998 crop is estimated to be 2.4 million pounds. Therefore, total supply for the 1998 MY is 4.8 million pounds. During the 1998 MY, it is estimated that disappearance will total approximately 2.3 million pounds. Deducting this disappearance from total supply results in a 1999 MY

beginning stock estimate of 2.8 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1999, is 2.5 million pounds. This represents the quantity that may be marketed that will make available during the 1999 MY a supply equal to the reserve supply level. More than 95 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1999 national marketing quota of 2.116 million pounds is necessary to make available production of 2.1 million pounds. As permitted by section 312(b) of the 1938 Act, it was further determined that the 1999 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. This determination took into account the size of last year's quota, the comments, the long storage time for this tobacco and the possibility of changes in demand over expected demand. Thus, the national marketing quota for the 1999 crop is 2.6 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 1999 national marketing quota of 2.6 million pounds by the 1994–98, 5-year national average yield of 1,600 pounds per acre results in a 1999 national acreage allotment of 1,625.00 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment for the 1999 MY, less a national reserve of 7.61 acres, by the total of the 1999 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(2) Fire-Cured (Types 22–23) Tobacco

The average annual quantity of fire-cured (types 22–23) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1998 MY was approximately 19.3 million pounds. The average annual quantity produced in the United States and exported during the 10 MYs preceding the 1998 MY was 15.5 million pounds (farm sales weight basis). Domestic use has trended upward while exports have varied. Because of these considerations, a normal year's domestic consumption has been determined to be 29.7 million pounds, and a normal year's exports have been determined to be 18.4 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 117.7 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1998, of 84.8 million pounds. The 1998 crop is estimated to be 40.4 million pounds. Therefore, total supply for the 1998 MY is 125.2 million pounds. During the 1998 MY, it is estimated that disappearance will total approximately 40.0 million pounds. Deducting this disappearance from total supply results in a 1999 MY beginning stock estimate of 85.2 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1999, is 32.5 million pounds. This represents the quantity that may be marketed that will make available during the 1999 MY a supply equal to the reserve supply level. About 95 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1999 national marketing quota of 34.5 million pounds is necessary to make available production of 32.5 million pounds.

Utilizing section 312(b) of the 1938 Act, it was further determined for the same reason as with fire-cured (type 21) tobacco, that the 1999 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. Thus, the national marketing quota for the 1999 crop is 41.4 million pounds.

In accordance with section 313(g) of the 1938 Act, dividing the 1999 national marketing quota of 41.4 million pounds by the 1994–98, 5-year average yield of 2,577 pounds per acre results in a 1999 national acreage allotment of 16,065.19 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 0.95 is determined by dividing the national acreage allotment for the 1999 MY, less a national reserve of 53.30 acres, by the total of the 1999 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(3) Dark Air-Cured (Types 35–36) Tobacco

The average annual quantity of dark air-cured (types 35–36) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1998 MY was approximately 9.0 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1998 MY was 1.4 million pounds (farm sales weight basis). Both domestic use and exports have been erratic. Because of these considerations, a normal year's domestic consumption has been determined to be 10.2 million pounds, and a normal year's exports have been determined to be 1.4 million pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 31.9 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1998, of 22.4 million pounds. The 1998 crop is estimated to be 10.1 million pounds. Therefore, total supply for the 1998 MY is 32.5 million pounds. During the 1998 MY, it is estimated that disappearance will total approximately 10.5 million pounds. Deducting this disappearance from total supply results in a 1999 MY beginning stock estimate of 22.0 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1999, is 9.9 million pounds. This represents the quantity that may be marketed that will make available during the 1999 MY a supply equal to the reserve supply level. Over 90 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a national marketing quota of 10.67 million pounds is necessary to make available production of 9.9 million pounds. In accordance with section 312(b) of the 1938 Act, it has been further determined that the 1999 national marketing quota should be increased by 20 percent over the normal formula amount in order to avoid undue restriction of marketings. This determination took into account the same factors as with fire-cured (type 21) tobacco and industry preferences. This results in a national marketing quota for the 1999 MY of 12.8 million pounds. Otherwise, the quota would be below the level for the 1998 crop.

In accordance with section 313(g) of the 1938 Act, dividing the 1999 national marketing quota of 12.8 million pounds by the 1994–98, 5-year average yield of 2,291 pounds per acre results in a 1999 national acreage allotment of 5,587.08 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.10 is determined by dividing the national acreage allotment for the 1999 MY, less a national reserve of 45.60 acres, by the total of the 1999 preliminary farm acreage allotments

(previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(4) Virginia Sun-Cured (Type 37) Tobacco

The average annual quantity of Virginia sun-cured (type 37) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1998 MY was approximately 90,000 pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1998 MY was approximately 100,000 pounds (farm sales weight basis). Both domestic use and exports have shown a sharp downward trend. Because of these considerations, a normal year's domestic consumption has been determined to be 64,000 pounds, and a normal year's exports have been determined to be 20,000 pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 219,000 pounds.

Manufacturers and dealers reported stocks held on October 1, 1998, of 50,000 pounds. The 1998 crop is estimated to be 140,000 pounds. Therefore, total supply for the 1998 MY is 190,000 pounds. During the 1998 MY, it is estimated that disappearance will total approximately 190,000 pounds. Deducting this disappearance from total supply results in a 1999 MY beginning stock estimate of 90,000 pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1998, is 129,000 pounds. This represents the quantity that may be marketed that will make available during the 1998 MY a supply equal to the reserve supply level. Less than three-quarters of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1999 national marketing quota of 171,000 pounds is necessary to make available production of 129,000 pounds. Thus, the national marketing quota for the 1999 crop is 171,000 pounds which is greater than the preceding quota by about 5 percent and should not unduly restrict marketings.

In accordance with section 313(g) of the 1938 Act, dividing the 1999 national marketing quota of 171,000 pounds by the 1994–98, 5-year average yield of 1,466 pounds per acre results in a 1999 national acreage allotment of 116.64 acres.

Pursuant to the provisions of section 313(g) of the 1938 Act, a national acreage factor of 1.0 is determined by dividing the national acreage allotment for the 1999 MY, less a national reserve of 0.35 acres, by the total of the 1999 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(5) Cigar-Filler and Binder (Types 42–44 and 53–55) Tobacco

The average annual quantity of cigar-filler and binder (types 42–44 and 53–55) tobacco produced in the United States that is estimated to have been consumed in the United States during the 10 MYs preceding the 1998 MY was approximately 10.9 million pounds. The average annual quantity produced in the United States and exported from the United States during the 10 MYs preceding the 1998 MY was less than 100,000 pounds (farm sales weight). Domestic use has trended downward and exports are very small. Thus, a normal year's domestic consumption has been determined to be 5.9 million pounds, and a normal year's exports have been determined to be zero pounds. Application of the formula prescribed by section 301(b)(14)(B) of the 1938 Act results in a reserve supply level of 17.0 million pounds.

Manufacturers and dealers reported stocks held on October 1, 1998, of 16.2 million pounds. The 1998 crop is estimated to be 4.2 million pounds. Therefore, total supply for the 1998 MY is 20.4 million pounds. During the 1998 MY, it is estimated that disappearance will total about 7.0 million pounds. Deducting this disappearance from total supply results in a 1999 MY beginning stock estimate of 13.4 million pounds.

The difference between the reserve supply level and the estimated carryover on October 1, 1999, is 3.6 million pounds. This represents the quantity that may be marketed that will make available during the 1999 MY a supply equal to the reserve supply level. About 80 percent of the announced national marketing quota is expected to be produced. Accordingly, it has been determined that a 1999 national marketing quota of 4.5 million pounds is necessary to make available production of 3.6 million pounds. This results in a 1999 national marketing quota of 4.5 million pounds. This determination reflects that there are short reserve supplies and takes into account possible changes in expected demand and the fact that even with this adjustment the 1999 quota will be less than the 1998 crop quota.

In accordance with section 313(g) of the 1938 Act, dividing the 1999 national marketing quota of 4.5 million pounds by the 1994–98, 5-year average yield of 2,054 pounds per acre results in a 1999 national acreage allotment of 2,190.84 acres.

Pursuant to the provisions of section 313(g), of the 1938 Act, a national factor of 0.65 is determined by dividing the national acreage allotment for the 1999 MY, less a national reserve of 2.31 acres, by the total of the 1999 preliminary farm acreage allotments (previous year's allotments). The preliminary farm acreage allotments reflect the factors specified in section 313(g) of the 1938 Act for apportioning the national acreage allotment, less the national reserve, to old farms.

(6) Referendum Results for Cigar-Filler and Binder (Types 42–44 and 53–55) Tobaccos

Because of the results of the producer referendum, marketing quotas shall be in effect for the 1999 MY for cigar-filler and binder (types 42–44 and 53–55) tobacco. In referenda held March 15–19, 1999, 77.7 percent of cigar filler and binder producers voted in favor of quotas.

REFERENDUM DATA

Kind of tobacco	Total votes	Yes votes	No votes	% yes votes
Cigar-filler and binder (types 42–44 and 54–55)	909	706	203	77.7

Price Support

Statutory Provisions

Section 106(f)(6)(A) of the 1949 Act provides that the level of support for the 1999 crop of a kind of tobacco (other than flue-cured and burley) shall be the level in cents per pound at which the 1998 crop of such kind of tobacco was supported, plus or minus, as appropriate, the amount by which (i) the basic support level for the 1999 crop, as it would otherwise be determined under section 106(b) of the 1949 Act, is greater or less than (ii) the support level for the 1998 crop, as it would otherwise be determined under section 106(b). To the extent that the price support level would be increased as a result of that comparison, section 106(f) provides that the increase may be modified using the provisions of 106(d). Under 106(d), the Secretary may reduce the level of support for grades the Secretary determines will likely be in excess supply so long as the weighted level of support for all grades maintains at least 65 percent of the increase in the price support (from the previous year). The Secretary must consult with the appropriate tobacco associations and take into consideration the supply, and anticipated demand for the tobacco, including the effect of the action on other kinds of quota tobacco. In determining whether the supply of any grade of any kind of tobacco of a crop will be excessive, the Secretary is required to consider the domestic supply, including domestic inventories, the amount of such tobacco pledged as security for price support loans, and anticipated domestic and export demand, based on the maturity, uniformity, and stalk position of such tobacco.

Section 106(b) of the 1949 Act provides that the ''basic support level'' for any year is determined by multiplying the support level for the 1959 crop of such kind of tobacco by the ratio of the average of the index of prices paid by farmers, including wage rates, interest and taxes (referred to as the ''parity index'') for the 3 previous calendar years to the average index of such prices paid by farmers, including wage rates, interest and taxes for the 1959 calendar year.

In addition, section 106(f)(6)(B) of the 1949 Act provides that to the extent requested by the board of directors of an association through which price support is made available to producers (producer association), the Secretary may reduce the support level determined under section 106(f)(6)(A) of the 1949 Act for the respective kind of tobacco to more accurately reflect the market value and improve the marketability of such tobacco. Accordingly, the price support level for a kind of tobacco set forth in this rule could be reduced if such a request is made.

Price Support Determinations

The following levels of price support for the 1998 crops of various kinds of tobacco, which were determined in accordance with section 106(f)(6)(A) of the 1949 Act, are as follows:

Kind and type	Support level (cents per pound)
Fire-cured (type 21)	153.6
Fire-cured (types 22–23)	168.1
Dark air-cured (types 35–36)	145.0
Virginia sun-cured (type 37)	136.0
Cigar-filler and binder (types 42–44 and 53–55)	121.2

For the 1999 crop year:

(1) Average parity indexes for calendar year periods 1995–1997 and 1996–1998 are as follows:

Year	Index	Year	Index
1995	1,452	1996	1,520
1996	1,520	1997	1,558
1997	1,558	1998	1,532
Average	1,510	Average	1,537

(2) Average parity index, calendar year 1959 = 298.

(3) 1998 ratio of 1,500 to 298 = 5.07; 1999 ratio of 1,537 to 298 = 5.16.

(4) Ratios times 1959 support levels and 1999 increase in basic support levels are as follows:

Kind and type of tobacco	1959 support level	Basic support level [1]		Increase from 1997 to 1998	
	(¢/lb.)	1998 (¢/lb.)	1999 (¢/lb.)	100% (¢/lb.)	65% (¢/lb.)
Fire-cured (type 21)	38.8	196.7	200.2	3.5	2.3
Fire-cured (types 22–23)	38.8	196.7	200.2	3.5	2.3
Dark air-cured (types 35–36)	34.5	174.9	178.0	3.1	2.0
Virginia sun-cured (type 37)	34.5	174.9	178.0	3.1	2.0
Cigar-filler and binder (types 42–44, 53–55)	28.6	145.0	147.6	2.6	1.7

[1] 1998 ratio is 5.07, 1999 ratio is 5.16.

The loan associations for Virginia fire-cured (type 21) and Virginia sun-cured (type 37) tobacco have accepted lower price support levels so their tobacco may remain competitive in world markets. Therefore, for fire-cured (type 21) tobacco and Virginia sun-cured (type 37) tobacco, the 1999-crop support levels were set so as to only add, over 1998-crop levels, 65 percent of the difference between the 1999 crop ''basic support level'' and the 1998-crop ''basic

support level.'' For the other tobaccos covered in this notice there was no such recommendation and the support levels were set accordingly. Accordingly, the price support levels for fire-cured (types 22–23), dark air-cured (types 35–36) and cigar filler and binder (types 42–44 and 53–55) tobaccos were set to use the MY 1998 level of support increased by 100 percent of the difference between the MY 1999 ''basic support level'' and the MY 1998 ''basic support level.'' Chewing tobacco, smoking tobacco, and snuff manufacturing formulas limit the substitutability of one of these kinds of tobacco for another. Cigarettes, the principal outlet for flue-cured and burley tobaccos, do not require any of these five kinds of tobacco in their blends.

Accordingly, the following price support determinations were announced on March 1, 1999, for the 1999 crops of the tobaccos which are the subject of this notice:

Kind and type of tobacco	Support level (cents per pound)
Fire-cured (type 21)	155.9
Fire-cured (types 22–23)	171.6
Dark air-cured (types 35–36)	148.1
Virginia sun-cured (type 37)	138.0
Cigar-filler and binder (types 42–44 and 53–55)	123.8

Further Rulemaking

As indicated proviously, price support determination referenced in this notice are exempt from rulemaking. In addition to those and the other determinations addressed in this notice many of which are driven by statutory deadlines and affect the marketing of current crops for which farmer must plan, it was determined that to the extent restrictions might otherwise apply, a delay in the effectiveness of the for determinations additional notice and procedures would be contrary to the public interest, impracticable, and unnecessary. This conclusion is the same as to prior crop years, and for all purposes, including for purposes of the Small Business Regulatory Enforcement Act (Pub. L. No. 104–121).

List of Subjects

7 CFR Part 723

Acreage allotments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

7 CFR Part 1464

Price supports, Tobacco.

Accordingly, 7 CFR parts 723 and 1464 are amended to read as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b-1, 1314b-2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1421, 1445–1, and 1445–2.

2. Section 723.113 is amended by adding paragraph (g) to read as follows:

§ 723.113 Fire-cured (type 21) tobacco.

* * * * *

(g) The 1999-crop national marketing quota is 2.6 million pounds.

3. Section 723.114 is amended by adding paragraph (g) to read as follows:

§ 723.114 Fire-cured (types 22–23) tobacco.

* * * * *

(g) The 1999-crop national marketing quota is 41.4 million pounds.

4. Section 723.115 is amended by adding paragraph (g) to read as follows:

§ 723.115 Dark air-cured (types 35–36) tobacco.

* * * * *

(g) The 1999-crop national marketing quota is 12.8 million pounds.

5. Section 723.116 is amended by adding paragraph (g) to read as follows:

§ 723.116 Sun-cured (type 37) tobacco.

* * * * *

(g) The 1999-crop national marketing quota is 171,000 pounds.

6. Section 723.117 is amended by adding paragraph (g) to read as follows:

§ 723.117 Cigar-filler and binder (types 42–44 and 53–55) tobacco.

* * * * *

(g) The 1999-crop national marketing quota is 4.5 million pounds.

PART 1464—TOBACCO

7. The authority citation for 7 CFR part 1464 continues to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, and 1445–1; 15 U.S.C. 714b and 714c.

8. Section 1464.13 is amended by adding paragraph (g) to read as follows:

§ 1464.13 Fire-cured (type 21) tobacco.

* * * * *

(g) The 1999-crop national price support level is 155.9 cents per pound.

9. Section 1464.14 is amended by adding paragraph (g) to read as follows:

§ 1464.14 Fire-cured (types 22–23) tobacco.

* * * * *

(g) The 1999-crop national price support level is 171.6 cents per pound.

10. Section 1464.15 is amended by adding paragraph (g) to read as follows:

§ 1464.15 Dark air-cured (types 35–36) tobacco.

* * * * *

(g) The 1999-crop national price support level is 148.1 cents per pound.

11. Section 1464.16 is amended by adding paragraph (g) to read as follows:

§ 1464.16 Virginia sun-cured (type 37) tobacco.

* * * * *

(g) The 1999-crop national price support level is 138.0 cents per pound.

12. Section 1464.17 is amended by adding paragraph (g) to read as follows:

§ 1464.17 Cigar-filler and binder (types 42–44 and 53–55) tobacco.

* * * * *

(g) The 1999-crop national price support level is 123.8 cents per pound.

Signed at Washington, DC, on June 28, 2000.

Keith Kelly,

Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 00–16989 Filed 7–5–00; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 931

[Docket No. FV00–931–1 IFR]

Fresh Bartlett Pears Grown in Oregon and Washington; Decreased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule decreases the assessment rate established for the Northwest Fresh Bartlett Pear Marketing Committee (Committee) under Marketing Order No. 931 for the 2000–2001 and subsequent fiscal periods from $0.025 to $0.02 per standard box of fresh Bartlett pears handled. The Committee is responsible for local administration of the marketing order which regulates the handling of fresh Bartlett pears grown in Oregon and Washington. Authorization to assess fresh Bartlett pear handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The 2000–2001 fiscal period begins July 1 and ends June 30. The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective July 7, 2000. Comments received by September 5, 2000, will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, 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. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: Teresa L. Hutchinson, Northwest Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 1220 SW Third Avenue, suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440 or George J. Kelhart, 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, Fax: 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 No. 141 and Order No. 931 (7 CFR part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington hereinafter referred to as the ''order.'' The marketing agreement and order are 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. Under the marketing order now in effect, fresh Bartlett pear handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable fresh Bartlett pears beginning July 1, 2000, and continuing until modified, suspended, or terminated. 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. Such 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 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 rule decreases the assessment rate established for the Committee for the 2000–2001 and subsequent fiscal periods from $0.025 to $0.02 per standard box of fresh Bartlett pears handled.

The fresh Bartlett pear marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of fresh Bartlett pears. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1999–2000 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on June 1, 2000, and unanimously recommended 2000–2001 expenditures of $81,060 and an assessment rate of $0.02 per standard box of fresh Bartlett pears handled. In comparison, last year's budgeted expenditures were $77,231. The assessment rate of $0.02 is $0.005 less than the rate now in effect and will reduce the financial burden on handlers. At the current rate of $0.025 per standard box and with estimated 2000–2001 fresh Bartlett pear shipments of 3,200,000 standard boxes, the projected reserve on June 30, 2001, would exceed the level the Committee believes to be adequate to administer the program. The Committee discussed lower assessment rates, but decided that an assessment rate of less than $0.02 would not generate the income necessary to administer the program with an adequate reserve. The decreased assessment rate is expected to result in an operating reserve of $19,261 on June 30, 2001.

Major expenses recommended by the Committee for the 2000–2001 fiscal period include $44,468 for salaries, $4,847 for office rent, and $3,891 for health insurance. Budgeted expenses for these items in 1999–2000 were $40,433, $5,323, and $4,048, respectively.

The Committee based its recommended assessment rate on the 2000–2001 crop estimate, the 2000–2001 fiscal period expenditures estimate, and the current and projected balance of the operating reserve. With fresh Bartlett pear shipments for 2000–2001 estimated at 3,200,000 standard boxes, the $0.02 per standard box assessment rate should provide $64,000 in assessment income. Income derived from handler assessments, along with $13,060 from the Committee's authorized reserve (currently $32,321) and miscellaneous income ($3,000), will be adequate to cover budgeted expenses. Funds in the reserve (estimated to be $19,261 at the end of the 2000–2001 fiscal period) will be kept within the maximum permitted by the order (approximately one fiscal year's operational expenses; § 931.42).

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2000–2001 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule 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 the 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 1,800 producers of fresh Bartlett pears in the production area and approximately 65 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000 and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Currently, about 98.5 percent of the fresh Bartlett pear handlers ship under $5,000,000 worth of fresh Bartlett pears and 1.5 percent ship over $5,000,000 worth on an annual basis. In addition, based on acreage, production, and producer prices reported by the National Agricultural Statistics Service, and the total number of fresh Bartlett pear producers, the average annual producer revenue is approximately $9,800. In view of the foregoing, it can be concluded that the majority of fresh Bartlett pear producers and handlers may be classified as small entities, excluding receipts from other sources.

This rule decreases the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from $0.025 to $0.02 per standard box of fresh Bartlett pears handled. The Committee unanimously recommended 2000–2001 expenditures of $81,060 and an assessment rate of $0.02 per standard box of fresh Bartlett pears handled. In comparison, last year's budgeted expenditures were $77,231. The assessment rate of $0.02 is $0.005 less than the rate currently in effect. At the rate of $0.025 per standard box and with 2000 fresh Bartlett pear shipments estimated at 3,200,000 standard boxes, the projected reserve on June 30, 2001, would exceed the level the Committee believes to be adequate to administer the program. The assessment rate reduction would also lessen the financial burden on handlers. The Committee decided that an assessment rate of less than $0.02 would not generate the income necessary to administer the program with an adequate reserve.

Major expenses recommended by the Committee for the 2000–2001 fiscal period include $44,468 for salaries, $4,847 for office rent, and $3,891 for health insurance. Budgeted expenses for these items in 1999–2000 were $40,433, $5,323, and $4,048, respectively.

With fresh Bartlett pear shipments for 2000–2001 estimated at 3,200,000 standard boxes, the $0.02 rate of assessment should provide $64,000 in assessment income. Income derived from handler assessments, along with $13,060 from the Committee's authorized reserve (currently $32,321) and miscellaneous income ($3,000), will be adequate to cover budgeted expenses. Funds in the reserve (estimated to be $19,261 at the end of the 2000–2001 fiscal period) will be kept within the maximum permitted by the order (approximately one fiscal year's operational expenses; 931.42).

Recent price information indicates that the grower price for the 2000–2001 marketing season will range between $8.60 and $11.30 per standard box of fresh Bartlett pears. Therefore, the estimated assessment revenue for the 2000–2001 fiscal period as a percentage of total grower revenue will range between 0.18 and 0.23 percent.

This action decreases the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers and may reduce the burden on producers.

In addition, the Committee's meeting was widely publicized throughout the fresh Bartlett pear industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the June 1, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This action will not impose any additional reporting or recordkeeping requirements on either small or large fresh Bartlett pear handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: 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.

After consideration of all relevant matter presented, including the

information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This action reduces the current assessment rate for fresh Bartlett pears; (2) the 2000–2001 fiscal period begins on July 1, 2000, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable fresh Bartlett pears handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) this interim final rule provides a 60-day comment period, and all comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 931

Marketing agreements, Pears, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 931 is amended as follows:

PART 931—FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

1. The authority citation for 7 CFR part 931 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 931.231 is revised to read as follows:

§ 931.231 Assessment rate.

On and after July 1, 2000, an assessment rate of $0.02 per western standard pear box is established for the Northwest Fresh Bartlett Pear Marketing Committee.

Dated: June 27, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–16990 Filed 7–5–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 00–14]

RIN 1557–AB86

Other Equity Investments

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is making a technical correction to its regulation on non-controlling equity investments to clarify that a national bank that wishes to use the notice procedure to make a non-controlling investment in an enterprise must certify that its loss exposure is limited, as a legal and accounting matter, and that it does not have open-ended liability for the obligations of the enterprise.

EFFECTIVE DATE: July 6, 2000.

FOR FURTHER INFORMATION CONTACT: Stuart Feldstein, Assistant Director, or Karl Betz, Attorney, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC, 20219.

SUPPLEMENTARY INFORMATION:

Description of Change

On March 10, 2000 the OCC published a final rule titled ''Financial Subsidiaries and Operating Subsidiaries.'' 65 FR 12905. The final rule amended 12 CFR 5.36, ''Other equity investments,'' to provide a streamlined, after-the-fact notice procedure for national banks making non-controlling investments in enterprises engaging in specified activities. As part of the notice process, the applicant must certify that it has satisfied the standards and conditions that the OCC applies to investments of this type.[1] These standards and conditions are established by OCC precedents approving non-controlling investments.[2]

The final rule omitted from the notice procedure one standard contained in these precedents. In order to clarify that all of the standards and conditions contained in OCC precedent approving non-controlling investments apply to non-controlling investments that are eligible for the after-the-fact notice procedure, we are amending § 5.36(e) to conform the requirements of the notice procedure with those of the precedents on which it is based. Accordingly, this rule adds the requirement that a national bank certify that its loss exposure is limited, as a legal and accounting matter, and that the bank does not have open-ended unlimited liability for the obligations of the enterprise. The rule is published in final form and takes effect immediately upon publication in the **Federal Register**.

Administrative Procedure Act—Notice and Comment

Pursuant to section 553(b)(B) of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), the OCC finds good cause for dispensing with the requirements for notice and an opportunity for public comment that the APA would otherwise require. This technical correction conforms the rule with the governing standards that have been available in published OCC precedent for some time. By removing an apparent inconsistency with the precedents in this area, the rule avoids the confusion, and the potential for the filing of incomplete notices, that may otherwise occur when banks compare the requirements of the rule with those in the precedents.

Effective Date

The APA generally requires that a final rule take effect 30 days after publication in the **Federal Register**. 5 U.S.C. 553(d). Similarly, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act) generally requires that a final rule issued by a Federal banking agency take effect on the first day of the first calendar quarter that begins on or after the date on which the regulation is published in final form. 12 U.S.C. 4802(b)(1). Both requirements are subject to a good cause exception.

For the reasons previously explained, the OCC finds good cause for making this amendment to 12 CFR 5.36(e) effective immediately upon publication. Delaying the effective date of the amendment will delay national banks' ability to rely with certainty on the notice process for non-controlling investments and thus impede the rule's purpose of facilitating national banks' ability to make non-controlling

[1] *See* 65 FR at 12913 (provisions describing the certifications that the notice must contain).

[2] *See, e.g.,* OCC Corporate Decision No. 97–54 (June 26, 1997); OCC Interpretive Letter No. 692, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,007 (Nov. 1, 1995); OCC Interpretive Letter No. 694, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,009 (Dec. 13, 1995); OCC Interpretive Letter No. 705, *reprinted* in [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81,020 (October 25, 1995); OCC Interpretive Letter No. 711, *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–026 (Feb. 23, 1996).

investments that comport with the standards the OCC has adopted in its published precedents.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) does not apply to a rulemaking where a general notice of proposed rulemaking is not required. 5 U.S.C. 603 and 604. As noted previously, the OCC has determined that it is not necessary to publish a notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis are not applicable. In any event, however, since this final rule merely adds one additional element to the notice that the rule permits a national bank to file, this final rule does not have a significant economic impact on a substantial number of small entities.

Executive Order 12866

The Comptroller of the Currency has determined that this final rule is not a significant regulatory action for purposes of Executive Order 12866.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (UMA), applies only when an agency is required to issue a general notice of proposed rulemaking or a final rule for which the agency published a general notice of proposed rulemaking (2 U.S.C. 1532). As noted previously, the OCC has determined, for good cause, that notice and comment is unnecessary. Accordingly, the UMA does not require a budgetary impact analysis.

Nevertheless, the OCC has determined that 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, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory activities considered.

List of Subjects in 12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

For the reasons set forth in the preamble, the OCC amends chapter I of title 12 of the Code of Federal Regulations as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

1. The authority citation for part 5 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a; and section 5136A of the Revised Statutes, (12 U.S.C. 24a).

2. Section 5.36 is amended by:

A. Redesignating paragraph (e)(7) as (e)(8);

B. Removing ''and'' from the end of paragraph (e)(6); and

C. Adding a new paragraph (e)(7) to read as follows:

§ 5.36 Other equity investments.

* * * * *

(e) * * *

(7) Certify that the bank's loss exposure is limited, as a legal and accounting matter, and the bank does not have open-ended liability for the obligations of the enterprise; and

* * * * *

Dated: June 27, 2000

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 00–17008 Filed 7–5–00; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 915

[No. 2000–31]

RIN 3069–AB00

Election of Federal Home Loan Bank Directors

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulations to address the status of the 1999 and 2000 elections of directors at each Federal Home Loan Bank (Bank), and to provide standards regarding the manner in which the Banks must stagger their boards. The final rule also addresses the consequences to an incumbent director whose directorship is eliminated or is redesignated as representing Bank members located in a different state before the end of his or her term.

EFFECTIVE DATE: The final rule is effective on August 7, 2000.

FOR FURTHER INFORMATION CONTACT: Neil R. Crowley, Deputy General Counsel, (202) 408–2990, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Background

On February 23, 2000, the Finance Board approved a proposed rule to implement provisions of the Gramm-Leach-Bliley Act, Public Law 106–102, 133 Stat. 1338, 1453 (Nov. 12, 1999) (GLB Act) regarding the term of office of Bank directors. 65 FR 17458 (April 3, 2000). The GLB Act amended Section 7(d) of the Federal Home Loan Bank Act (Bank Act) to establish uniform three-year terms for the appointed and elected directors of the Banks and required that the terms of those directors first elected or appointed after enactment of the GLB Act be adjusted as necessary to stagger the board of each Bank into three classes of approximately equal size. 12 U.S.C. 1427(d), *as amended*. Under prior law the appointed directors had served for four-year terms and the elected directors had served for two-year terms. Because the GLB Act amendments took effect upon enactment, they had the effect of extending the terms of all incumbent elected directors by one year. As a result of the extension of the terms of office by the GLB Act, on January 1, 2000, when the two-year terms of the elected directors otherwise would have expired, there were no open elected directorships at any of the Banks. During 1999, each Bank had conducted elections in which the members voted to elect approximately one-half of the elected directors of the Bank, but the candidates elected could not assume office on January 1, 2000 as a consequence of the GLB Act amendments. In previously addressing the effect of the GLB Act on the terms of Bank directorships, the Finance Board expressed its intent to authorize the board of directors of each Bank to decide whether to conduct new elections in 2000 or to adopt the tabulation of votes cast in the 1999 elections for use in the 2000 elections.[1] The Finance Board indicated that it would establish the criteria by which the board of each Bank could make that decision, which was one issue that the Finance Board had addressed in the proposed rulemaking. The proposed rule also addressed the manner in which the terms of the directors assuming office after November 12, 1999 were to be adjusted in order to achieve the one-third staggering required by the GLB Act. The final rule addresses both of those issues, substantially as proposed.

[1] Finance Board Resolution No. 99–65 (Dec. 14, 1999).

II. The Proposed Rule

The GLB Act imposed the staggering requirement without amending existing law, under which the elected directorships of the Banks are allocated among the states based in part on the amount of Bank stock required to be held by the members located in each state as of the end of the prior year, and in part on the number of directorships designated to each state in 1960. Under the existing provisions, it is possible for an elected directorship to be redesignated mid-term to represent the members located in another state. It is also possible that the annual designation of directorships might reduce the number of elected directorships allocated to a particular state, thus causing a directorship to disappear altogether. The proposed rule included provisions intended to maintain a staggered board notwithstanding the possibility that over time one or more directorships might be eliminated. The proposed rule also addressed the consequences to an incumbent director if, in mid-term, his or her seat were eliminated or redesignated to represent members located in another state.

The proposed rule described in detail the provisions of Section 7(b) and (c) of the Bank Act relating to the designation of directorships among the states within each Bank district and the possible scenarios in which an elected directorship may, from time to time, be redesignated to another state or eliminated altogether, as a result of shifts in the stock ownership of the members in the respective states. The proposed rule also described the manner in which the Finance Board may create additional elected or appointed directorships in certain Bank districts and how those ''discretionary'' directorships may be eliminated. Because of the possibility that certain elected and appointed directorships may be eliminated or, in the case of elected directorships, redesignated to other states, the proposed rule described in some detail the resulting difficulties in establishing a staggered board of directors and maintaining that staggering in future years as the composition of the board may change. Rather than repeat that entire discussion here, the Finance Board is incorporating into this rule by reference the preamble discussion of the background of the proposed rule and of the state-based directorships.

III. Public Comments

The Finance Board received nine comment letters on matters addressed by the proposed rule. Five Banks submitted comment letters, as did two state banking trade associations, one member, and one trade association for community banking institutions. Most of the comments letters were supportive of the proposed rule, though each of the Banks requested that the final rule include certain revisions or clarifications, as noted below.

The member, and one Bank, suggested that the staggering provisions of the final rule not require that certain directorships be assigned one-year terms, as one year is too short a period to be productive for the director or for the Bank. The Finance Board appreciates the concern about a one-year term, but is not changing that aspect of the rule. In establishing the matrices for the Banks, which implement the staggering of the boards required by the GLB Act, the Finance Board was guided by the provisions of the GLB Act that require terms to be adjusted only as necessary to achieve a board that consists of three approximately equal classes. In order to avoid the possibility of any directors having a one-year term, the Finance Board could increase to two years the terms of the 21 directorships throughout the Bank System that otherwise would receive a one-year term under the final rule. In order to achieve the appropriately staggered board, however, the Finance Board likely would have to decrease to two years the terms of up to 21 directorships that otherwise would have a three-year term under the final rule. The Finance Board believes that if it can obtain the same staggering result by adjusting the terms of 21 directorships as it can by adjusting up to 42 directorships, then it is more consistent with the GLB Act to adjust the fewest number of terms necessary, even if some are for one-year. Thus, the final rule retains one-year terms as the initial term for some of the directorships at most of the Banks. Moreover, although the final rule requires 21 directorships System-wide be assigned a one-year term, 14 of those directorships are ''non-guaranteed'' directorships, which means that neither the director nor the Bank would be assured that the person holding that directorship would be able to serve for more than one year even if the Finance Board were to assign the directorship a two-year term. As noted below, any individuals that are assigned a one-year term will not be considered to have served a ''full term'' for that year, and thus could seek office for as many as three additional three-year terms, which the Finance Board believes offers some offsetting benefit to both the individual and the Bank.

One Bank asked that the Finance Board clarify whether a one-year term would constitute a ''full term'' for purposes of the term limits provision in Section 7(d) of the Bank Act, which applies to any person who ''has been elected to each of three consecutive full terms as an elective director.'' The current regulations do not address what constitutes a ''full term''. The Finance Board believes that a ''full term'' for these purposes is a three-year term, as authorized by the GLB Act, and that any shorter term that has been adjusted in order to comply with the GLB Act should not count as one of the ''three full consecutive terms'' for purposes of Section 7(d). To address the concern raised by this comment, the Finance Board has included in the final rule an amendment to § 915.7(c) stating expressly that for purposes of the statutory term limits a term of office that is adjusted as a result of the GLB Act does not constitute a ''full term''.

Two of the Banks requested that the final rule include a ''safe harbor'' provision that would allow the interested elected directors to participate in board decisions as to which directorships are to be assigned reduced terms. The final rule includes such a safe harbor provision, which will apply to both the assignment of reduced terms and the possible ratification of the 1999 election results.

One state trade association opposed the rule, apparently because it believes that a Bank would be able to declare elected a nominee who had received fewer votes in the 1999 election than would have been required to be elected, had the results not been rendered moot by the GLB Act. The only way in which the nominee who received the most votes in the 1999 election could not be seated, should the board of the Bank opt to ratify the 1999 election results, would be if that person were no longer eligible to serve as a Bank director, such as through death or by no longer being an officer or director of a member. The treatment under the proposed rule of a candidate for a Bank directorship who becomes ineligible during the course of the election process was consistent with past practice. In the past, if a person were ineligible to serve as a Bank director the Finance Board has not allowed that person to be included on the ballot or to be included in the tabulation of votes. If an individual nominee became ineligible prior to the distribution of the ballots, it had been the practice of the Finance Board to exclude that person from the ballots distributed to the members in that state.

If a nominee became ineligible after the distribution of the ballots but before the close of the election, it had been the practice of the Finance Board to notify the members of the loss of eligibility, distribute a revised ballot to any members who already had cast votes for the ineligible nominee (thus allowing them to vote for an eligible nominee), and, in the case of members that declined to submit a revised ballot, void any votes cast for the ineligible nominee.

The final rule does not alter that practice. The Finance Board believes that the Banks have no authority under the Bank Act to seat an individual that is not eligible to serve as a Bank director. Indeed, the Bank Act expressly states that if an elected director were to cease to be eligible to be a Bank director the office would immediately become vacant and the individual could no longer serve as a Bank director. 12 U.S.C. 1427(f)(3). Moreover, the current regulations expressly preclude a Bank from placing the name of an ineligible person on the ballot. 12 CFR 915.7(a). The final rule clarifies this issue by adding to § 915.7(a) a provision that a Bank shall not declare elected any nominee it has reason to know is ineligible to serve, nor seat a director-elect that it has reason to know is ineligible to serve. Thus, if a loss of eligibility were to occur before an election of directors had closed, the ineligible candidate could not be declared elected. Instead, the Bank should declare elected the eligible nominee who received the most votes. If the loss of eligibility were to occur after the election had closed, *i.e.,* after the Bank had declared elected the nominees with the most votes, then the Finance Board believes that the situation would be the same as if a sitting director had lost his or her eligibility. In that case, the seat would become vacant, in accordance with Section 7(f)(3) of the Bank Act, and the board of the Bank would be required to fill the vacancy by selecting a person who was eligible to serve. Although the GLB Act has created a unique situation with regard to the 1999 election of directors, causing an extended delay between the voting and the declaration of the directors-elect, the Finance Board sees no benefit in establishing a rule that would require the Banks to set aside an election any time that the person receiving the most votes dies or otherwise loses his or her eligibility to serve. Instead, the Finance Board believes that the most appropriate means of addressing a loss of eligibility that occurs before the election closes is for the Bank to declare elected, from among those nominees who remain eligible to serve, the person or persons receiving the most votes, which is consistent with the past practice of the Finance Board and with the provisions of existing law and regulation.

The trade association for community banks contended that the Finance Board has the legal authority to allocate elected directorships based on the type of charters held by members of each Bank, and that the Finance Board could authorize the use of outstanding advances as the basis for allocating directorships. Neither of those methods of allocating directorships was addressed by the proposed rule, and neither method is expressly authorized by the Bank Act. As this comment letter noted, however, the Finance Board will have to address the allocation of directorships in the rules implementing the capital provisions of the GLB Act. In fact, the Finance Board recently has approved a proposed capital rule that would grant the Banks substantial latitude in establishing a voting structure under the new capital regime, which, if adopted as proposed, would be broad enough to accommodate the allocation methods suggested by this commenter. That matter, however, is more appropriately addressed as part of the capital rule and has not been included in this rule.

The commenter also objected to the proposed method for staggering the directorships to comply with the GLB Act as unnecessarily complicated and too difficult for the Banks and the members to implement, though it did not offer alternatives or suggestions for simplifying the methodology. The Finance Board believes that the rule is as straightforward as is possible, given the language of the statute. Although the rule is rather detailed, it is not unduly complicated. To the extent that the proposed rule might be considered complicated, it is only because the Congress was persuaded by this very commenter to add an additional level of complexity to an already multi-layered statutory scheme. Moreover, the member and Bank commenters raised no similar objections. Indeed the only member to address the complexity of the rule characterized it as a reasonable approach, given the complex statutory constraints under which the Banks must conduct the elections. Similarly, the only Bank to address the issue stated that any complexity results from the approach to staggering the terms of the directorships mandated by the GLB Act, and that the proposed rule provided a fair and equitable method for dealing with a difficult situation. The other state trade association raised similar comments, but on this issue, the Finance Board is inclined to accord greater weight to the view of those entities, *i.e.,* the Banks and the members, that are most knowledgeable about the process of electing Bank directors and who will have to implement the provisions.

Two of the Banks raised a number of specific questions on issues such as eligibility, the assignment of guaranteed and non-guaranteed seats, the assignment of non-guaranteed directorships in subsequent years, and the assignment of directorships between a non-guaranteed directorship with a three-year term and a guaranteed directorship with a two-year term. Those issues are addressed below in the discussion of the specific provisions of the final rule.

IV. Description of the Final Rule

A. The 2000 Election

Before a Bank may decide whether to conduct new elections or to ratify the 1999 election results, it must determine which states within its district are to be assigned directorships with reduced terms, as required to implement the staggering provisions of the GLB Act and this rule. In order to create the third class of directorships required by the GLB Act, certain directorships must be assigned shortened terms in connection with the next two elections. Because the number of states within each Bank district varies, in some instances the adjusted terms will be assigned among directorships representing the same state, but for certain Banks the adjusted terms will have to be assigned among directorships representing different states. For certain Banks, the number of states within the district and the distribution of seats among the states are such that those Banks will not need to assign reduced terms to particular states. Where the board of directors of a Bank is required to choose among several different states in assigning the shortened term, the final rule requires that the board make that determination before considering how to proceed with the 2000 election of directors.

For example, the Atlanta Bank has one class of four elected directorships with terms commencing on January 1, 2001, in which each directorship represents a different state. It also has a second class of five elected directorships with terms commencing on January 1, 2002, in which four of the directorships represent different states. For each class, the board of the Atlanta Bank must assign to one state a term of less than three years, and the final rule

requires the board to make that assignment for both classes before determining how to conduct the 2000 election. The Finance Board believes that requiring the Banks to make this determination at the outset is most appropriate, as it will allow individuals running for the directorship from the affected states to know beforehand which directorships will be for less than a full three-year term.

After a Bank has made any necessary assignments of adjusted terms among the states, it must determine the manner in which to elect the directors whose terms are to commence on January 1, 2001. The rule generally allows the board of directors of each Bank either: (i) To conduct new elections during the year 2000 for all states in which an elected directorship is to commence on that date; or (ii) to adopt the results of the 1999 elections for all states that qualify under this rule, and to conduct new elections only in any state for which the rule requires a new election to be held. In either case, the designation of directorships conducted by the Finance Board in 2000 is to control. The Finance Board has completed the 2000 designation of directorships for each Bank, pursuant to § 915.3(b), which is nearly identical to the designation of directorships conducted in 1999, and has provided that information to the Banks. In each case, the Finance Board designated 114 elected directors throughout the Bank System.[2]

In only two states, Oklahoma and Nebraska, does the number of directorships designated in 2000 differ from the number designated to those states in 1999. In 1999, Oklahoma and Nebraska had three and two elected directorships, respectively, designated as representing the members located in those states. In 2000, the designations were reversed, with Oklahoma and Nebraska having two and three elected directorships, respectively. In effect, the constituency of the non-guaranteed stock directorship that formerly had been designated to Oklahoma ''migrated'' to Nebraska over the past year, as a consequence of an increase in the relative amount of Bank stock held by members located in Nebraska. As a result, the incumbent Oklahoma director holding the non-guaranteed directorship will become ineligible to hold that seat once the designation to Nebraska takes effect, on January 1, 2001. Because both non-guaranteed directorships for the Topeka Bank are in the class of directors with terms expiring on December 31, 2001, the 2000 elections cannot be used to determine which of the two Oklahoma directors in that class is to become ineligible at the end of the year. The issue of how to assign a non-guaranteed directorship between directors from the same state in the absence of an election was not directly addressed by the proposed rule. The final rule includes an amendment to § 915.3(e) that requires the board of the Bank to use the most recent election to determine which of the two incumbent Oklahoma directors with terms expiring on December 31, 2001 is to be assigned to the non-guaranteed directorship that is to be affected by the redesignation. Because neither of the non-guaranteed directorships for the Topeka Bank is up for election in 2000, the change in the designation from Oklahoma to Nebraska will have no effect on the 2000 elections in either state. Similarly, in Connecticut the composition of the one non-guaranteed directorship has changed in the 2000 designation (*i.e.,* from a stock seat to a discretionary seat) but the total allocated to the state remains the same, and thus there is no effect on the 2000 elections for Connecticut even though both of the two Connecticut seats are open in the 2000 election. The Finance Board intends to provide each Bank with additional guidance (such as through a regulatory interpretation) about how the designation of directorships will be applied at each Bank in conjunction with adjustment of the terms to be required by this rule.

Although the final rule generally vests the decision regarding the method of electing directors with the board of directors of each Bank, it requires the Banks to conduct new elections in one case. If the 2000 designation of directorships were to result in a state being allocated a number of directorships with terms commencing on January 1, 2001, that is greater than the number of nominees from that state in the 1999 election who remain eligible to serve as a Bank director, the Bank must conduct an election in that state for all directorships with terms commencing on that date. As described above, the 2000 designation of directorships is, for purposes of the 2000 election, unchanged from the 1999 designation of directorships, and thus the 2000 designation alone cannot trigger the requirement for a new election in any state. It remains possible, however, that the number of nominees from the 1999 election who remain eligible to serve as a Bank director for a particular state may have decreased since the enactment of the GLB Act to below the number of directorships designated to that state that are to be filled this year, which would require the Bank to hold a new election for that state. If a new election is required, the Bank must do so only for the affected state; the rule does not require the Bank to conduct a new election in any other states.

Even if the rule does not require a Bank to conduct a new election for a particular state, it grants to the board of directors of the Bank the discretion to do so. If the board were to determine that the Bank should conduct new elections in 2000, the Bank must conduct elections for every state for which a directorship is to commence on January 1, 2001, in accordance with the 2000 designation of directorships. If the board of directors of a Bank were to require new elections, the Bank would follow the normal procedures for conducting an election, in accordance with Part 915 of the Finance Board regulations, and the 1999 election results would be given no effect.

If a Bank is not required to conduct new elections and its board of directors does not opt to do so, the rule allows the board to adopt the votes cast by the members in 1999 as the basis for electing the directors who are to commence their terms on January 1, 2001. The rule requires that the use of the 1999 elections results be consistent with the 2000 designation of directorships and that there be sufficient eligible nominees remaining from the 1999 elections available to fill the designated seats. The board of each Bank is required to confirm, on a state-by-state basis, that the use of the 1999 election results is permissible, *i.e.,* that this rule does not require that a new election be held for a particular state, and that the nominees remain eligible to serve as Bank directors. As a practical matter, because the 2000 designation of directorships is unchanged from 1999, as applied to the 2000 election, the board of directors of each Bank may ratify the results of the 1999 election, subject only to confirming the eligibility of the directors-elect (or other nominees) to serve.

If the board of directors ratifies the 1999 election results, it must notify the Finance Board, the directors-elect, and each member in the affected state. The notice also must indicate which, if any, terms have been adjusted in order to achieve the staggering required by the GLB Act. This requirement applies to any directorship with a reduced term. Any such term adjustments must comply with § 915.17 of the proposed rule, described below, which addresses staggering the board of directors.

[2] Finance Board Resolutons No. 2000–21 (May 17 2000); No. 99–35 (June 2, 1999).

B. Staggering the Terms of Office

The GLB Act imposed what appears to be a straightforward requirement that the board of directors of each Bank be staggered into three approximately equal classes, i.e., it requires a ''class-based'' directorship structure for the Banks. Implementing that requirement, however, is not quite so straightforward because the GLB Act also retained the provisions of current law that require a ''state-based'' directorship structure. To some degree, a ''class-based'' structure and a ''state-based'' structure are in conflict. For example, the Banks cannot have and maintain a pure ''class-based'' staggered directorship structure if other provisions of the Bank Act allow for the possibility that a certain number of directorships may disappear from a given class as a result of shifting stock ownership or at the discretion of the Finance Board. Similarly, the Banks cannot maintain a viable ''state-based'' directorship structure if the creation, elimination, and redesignation of directorships that are necessary consequences of a system that assigns directorships based on relative stock ownership among the states are constrained by other provisions of the Bank Act that require the maintenance of a strict class structure. The final rule attempts to strike a balance between the two directorship structures by focusing on each Bank's core of ''guaranteed'' directorships, *i.e.,* those that are allocated to a particular state by statute, and ensuring that they remain staggered even if a certain number of the ''non-guaranteed'' directorships are eliminated in the future. The Finance Board recently has approved a proposed capital rule under which the Banks would be authorized to establish different directorship and voting structures as part of the capital structure plans required by the GLB Act. That proposal describes the conflict between certain provisions of Section 7 of the Bank Act, regarding Bank directorships, and certain provisions of Section 6 of the Bank Act, regarding capital, and how the Finance Board has proposed to reconcile those conflicts. The manner in which those conflicts are reconciled will be addressed exclusively in the final rule on the capital structure of the Banks, which the GLB Act requires to be adopted no later than November 12, 2000. The provisions of this final elections rule, as they relate to the directorship structure of the Banks, should not be viewed as indicating how the Finance Board ultimately will reconcile the above provisions in the final capital rule.

Guaranteed Directorships. Section 7 of the Bank Act guarantees that the members in each state are to be allocated a certain minimum number of Bank directorships. For most states, the Bank Act guarantees each state one directorship. Under a grandfather provision, however, 20 states are guaranteed a minimum number of seats that ranges from two to six directorships. *See* 12 U.S.C. 1427(c); 12 CFR 915.15. Those directorships cannot be eliminated as a result of shifting stock ownership among the members, nor can they be redesignated as representing members in another state. The final rule defines a core group of directorships that must be allocated to each state as ''guaranteed directorships.'' Ten of the Banks have eight guaranteed directorships each; the other Banks, New York and San Francisco, have nine and five guaranteed directorships, respectively.

Non-guaranteed directorships. The Bank Act also contemplates that certain states may be allocated directorships beyond the minimum number guaranteed by the Bank Act. The additional directorships result either from the amount of Bank stock held by the members located in a particular state or from the Finance Board's exercise of its authority to create discretionary directorships pursuant to Section 7(a) of the Bank Act. Those seats are not permanently allocated to a particular state and may be redesignated from year to year as representing members in another state; they also may be eliminated entirely. Most of the Banks have such directorships allocated to one or more states within their districts, which the final rule defines as ''non-guaranteed directorships.'' The final rule also defines two distinct sub-groups of non-guaranteed directorships: (1) ''discretionary directorships,'' *i.e.,* an elected or appointed directorship created by the Finance Board pursuant to Section 7(a) in districts with five or more states; and (2) ''stock directorships,'' *i.e.,* an elected directorship allocated to a state based on the amount of Bank stock held by the members located in that state, in addition to the minimum number of guaranteed directorships allocated to that state.

Staggering Process. The GLB Act requires that the board of each Bank be staggered into three approximately equal classes. Based on that directive, the rule first divides the guaranteed directorships at each Bank into three groups that are as nearly equal as possible. For each of the ten Banks that has eight guaranteed directorships, the result is three classes of two directors, three directors, and three directors, respectively. For the New York Bank, with nine guaranteed directorships, the result is three classes of three directors; for the San Francisco Bank, with five guaranteed directorships, there are three classes of one, two, and two directors, respectively. Accordingly, for eleven of the Banks the maximum number of guaranteed directorships that may be grouped into a single ''class,'' *i.e.,* a group of directorships with terms expiring on the same date, is three; for the San Francisco Bank, the maximum number is two.

The Finance Board considered attempting to establish a staggering methodology that could apply to the entire board of both appointed and elected directors, rather than the proposed method that focuses on the guaranteed directorships. No commenters suggested any alternative methodology for accomplishing the staggering required by the GLB Act. Because of the differences between the two types of directors, *i.e.,* the different manner of selection, the different interests represented, and the state-based restrictions that apply only to the elected directors, the Finance Board determined that the better approach is to build the staggered board on the foundation of guaranteed directorships, with non-guaranteed directorships and appointed directorships being assigned adjusted terms, as necessary to result in the approximate one-third staggering required by the GLB Act.

With regard to both the non-guaranteed and the appointed directorships, the terms are to be adjusted only as necessary to achieve the appropriately staggered board. For those appointed directorships with terms expiring on the enactment of the GLB Act or on December 31, 1999, the Finance Board has adjusted the terms of the successor directorships, *i.e.,* the first post-GLB Act appointments, only as necessary to ensure that no more than one third of a class of appointed directorships will expire at the same time. For the remaining appointed directorships that will expire at the end of each of the next two years, *i.e.,* the remainder of the first post-GLB Act appointments, the Finance Board intends to adjust the terms of the successor directorships only to the extent necessary to group the appointed directorships at each Bank into three approximately equal classes. Seven of the Banks have six appointed directorships each, and the Finance Board intends ultimately that each of those Banks will have three classes of two appointed directorships each. With regard to the other five Banks (three of

which have eight appointed directorships and two of which have seven), the Finance Board intends to adjust the terms of those additional appointed directorships as necessary to cause the entire board to be appropriately staggered.

Based initially on the maximum number of guaranteed directorships that may be included in a single class, the Finance Board has created a matrix for each Bank that indicates how the existing classes of elected directorships will be divided in order to create three classes of directorships of approximately equal size. The final rule requires the board of directors of each Bank to adjust the terms of directorships that commence on January 1, 2001 and January 1, 2002 in accordance with the matrix for that Bank, as described below. Each matrix groups the directorships based on their current status, *i.e.,* one group whose terms will commence on January 1, 2001, and a second group whose terms will commence on January 1, 2002. Within those two groups, the matrices indicate the states to which each directorship will be designated, the length of the term assigned to each directorship (commencing on January 1, 2001 or January 1, 2002, respectively), and whether the seat is ''non-guaranteed,'' *i.e.,* either a discretionary directorship or a stock directorship. The matrices are based on the designation of directorships conducted in 2000, which is the most recent designation available. The Finance Board also intends to provide updated matrices next year, in conjunction with the then-current designation of directorships.

With regard to the directorships commencing on January 1, 2001, each matrix assigns, or requires the board of directors of the Bank to assign, a three-year term to three of the guaranteed directorships (two directorships, in the case of San Francisco), which is the maximum number of guaranteed directorships allowed for any one class of directors. Each of the remaining guaranteed directorships with terms commencing on January 1, 2001 is assigned a two-year term; those directorships will establish, at least in part, the third class of directorships required by the GLB Act. The matrix applies the same methodology to the class of guaranteed directorships with terms commencing on January 1, 2002, except that the shortened terms will be for one year, rather than for two years. The Finance Board believes that assigning the three-year terms to the maximum number of guaranteed directorships possible in any one class is consistent with the GLB Act, which authorizes the adjustment of the term of a directorship only as necessary to achieve the required one-third staggering of the board.

For example, the Pittsburgh Bank has four guaranteed directorships with terms commencing on January 1, 2001. The matrix indicates that three of those seats—the maximum number of guaranteed directorships in any one class—have a full three-year term and the one remaining directorship has a two-year term. The Pittsburgh Bank has four other guaranteed directorship with terms commencing on January 1, 2002. Again, the matrix indicates that three of those seats—the maximum number of guaranteed directorships per class—receive a full three-year term, with the fourth directorship receiving a one year term. As a result, the Bank will achieve the required ''2–3–3'' staggering of its guaranteed directorships by adjusting the terms of only two of the eight guaranteed directorships. Thus, the Bank will have one class of two directorships with terms expiring on December 31, 2002, one class of three directorships with terms expiring on December 31, 2003, and one class of three directorships with terms expiring on December 31, 2004. Though not indicated on the matrix, the Finance Board will adjust the terms of the appointed directorships for the Pittsburgh Bank as necessary to create three classes of two directors each, which will result in the entire board being grouped into classes of ''4–5–5'', which is the closest to the one-third staggering that can be achieved with a fourteen director board.

The matrix for the Pittsburgh Bank also illustrates the different methods by which a directorship is to be assigned a shortened term, one of which is based on the votes cast by the members and the other of which is based on the number of states with directorships at issue. In the case of the four directorships commencing on January 1, 2001, each directorship is designated as representing the members located in Pennsylvania. In such a case, *i.e.,* where a reduced term must be assigned to one of several directorships from the same state, the rule requires that the assignment be based on the number of votes each director-elect receives in the most recent election. Thus, in the class of directorships commencing on January 1, 2001, the director-elect from Pennsylvania who receives the fourth most votes (using either the results of the 1999 election or the results of a new election, as determined by the board of directors) will be assigned the two-year term. The same methodology generally will apply whenever the Bank must make a choice between two or more directorships from the same state, whether the issue is which seat is to receive a reduced term or which seat is to be designated as a ''non-guaranteed'' directorship. The one exception, noted below, is where the matrix assigns a guaranteed directorship a shorter term than it assigns to a non-guaranteed directorship, which occurs only with regard to New York state. In that case, the final rule provides that the candidate receiving the greater number of votes is assigned to the guaranteed seat and the candidate with the lesser number of votes is assigned the non-guaranteed seat.

In certain cases, it also is possible for directors to be elected without a vote, such as where the number of nominees from a state is equal to or less than the number of directorships to be filled from that state. In that case, a short term or a non-guaranteed directorship could not be assigned on the basis of the number of votes received. This occurred in the 1999 election for directors representing members in Indiana, three of whom were declared elected without a vote. In that case, one of the three directorships must be assigned a 2-year term, but the proposed rule did not address how the assignment should be made in such a case. The final rule addresses that issue by providing that if a shortened term must be assigned among directors who have been elected without a vote, the board of the Bank must assign the terms on the basis of the most recent election.

The final rule also includes a conforming amendment to § 915.8(b), the provision authorizing directors to be elected without a vote, to allow such elections to occur only if the term and the status, *i.e.,* whether the directorships are guaranteed or non-guaranteed, are all the same. Thus, if there are three directorships from the same state at issue in an election and there are only three nominees for those directorships, but one directorship is non-guaranteed or is for a reduced term, the Bank still must hold an election to determine how those directorships are to be assigned. One Bank questioned how the proposed rule would apply if the matrix were to assign to a particular state in the same year one guaranteed directorship with a two-year term and one non-guaranteed directorship with a three year term, suggesting that it was not clear from the proposed rule how a Bank would allocate such directorships. The final rule addresses this question in § 915.17(b)(2) by providing that if a matrix assigns a guaranteed directorship a shorter term than it assigns to a non-guaranteed directorship for the same

state in the same year, the Bank shall assign the guaranteed directorship to the candidate receiving the most votes in the election. Because it is possible for a non-guaranteed directorship to be eliminated after one year (or to be redesignated to another state, which for the incumbent would have the same effect as being eliminated), the Finance Board believes that a guaranteed directorship, even if for an initial reduced term, is the more valued directorship and thus should be awarded to the candidate receiving the greater number of votes in the election.

Another Bank raised a question concerning the assignment of individual directors from the same state to the two seats that are allocated to the state, where there is one guaranteed directorship and one non-guaranteed discretionary directorship. In that case, the matrix for that Bank would allow the board of the Bank to assign each directorship from that state to an identical term or to different terms. The Bank was uncertain whether the Finance Board or the board of directors of the Bank would decide which of the two directorships would be guaranteed. The intent of the Finance Board is that the board of the Bank must make that determination in accordance with the matrix for that Bank. Thus, if the board of the Bank places the two directorships into the same class, *i.e.,* it assigns them to the same term, in the first election for that state the Bank would assign the guaranteed directorship to the candidate receiving the most votes, and the non-guaranteed seat to the candidate receiving the second most votes. In each subsequent election, (and assuming that the non-guaranteed directorship, which in this case is a discretionary directorship, remained designated to that state) the candidate receiving the most votes in that election would be assigned to the guaranteed directorship and the candidate receiving the second most votes would be assigned to the non-guaranteed seat. Thus, it would be possible in future elections that the individual receiving the most votes in one election would receive the second most votes in the next election, in which case the individual would switch from the guaranteed directorship to the non-guaranteed directorship for that state. The reference in the rule that a non-guaranteed directorship is to retain that designation for as long as it remains in existence refers only to the directorship itself, and not necessarily to the individual who holds the non-guaranteed directorship at any particular time. If, however, the Bank were to assign different terms to each of those two directorships at the outset, then there would be no issue because the guaranteed directorship and the non-guaranteed directorship would be filled in different years, and any persons running for either directorship would know whether it was guaranteed or non-guaranteed.

The same commenter raised three procedural questions concerning the treatment of those two directorships (*i.e.,* one guaranteed and one non-guaranteed, and both with the same initial term) in subsequent elections. In that case, for each election the Bank would inform its members in that state that two seats are open, that one is guaranteed and the other is non-guaranteed, and that the eligible candidate receiving the most votes will be awarded the guaranteed seat. In the event that no candidates were to be nominated for either seat in a subsequent election, the directorships would become vacant as of the end of the calendar year and the board of directors would select two eligible individuals to fill those vacancies in accordance with the existing provisions for filling vacant elected directorships. See 12 CFR 915.8(b). In doing so, the board of the Bank would designate one individual to fill the guaranteed directorship and one individual to fill the non-guaranteed directorship. In the event that only one person were nominated from that state, that person would fill the guaranteed directorship and the board of the Bank would select another person under the vacancy provisions to fill the non-guaranteed directorship.

With regard to the directorships at the Pittsburgh Bank that have terms commencing on January 1, 2002, the methodology differs somewhat from that used for the prior class. In this case, three of the four guaranteed directorships at issue are from different states: West Virginia, Delaware, and Pennsylvania (which has two guaranteed directorships in this class). Here, again, no more than three of the guaranteed directorships may be assigned a full three-year term, and one must receive a reduced term, which in this case will be for one year. Where the number of states is the same as the number of full-term directorships available, as is the case here, the matrix assigns one full term to each state. The matrices reflect a determination by the Finance Board that to the extent possible each state should be treated equally in the assignment of three-year terms. For that reason, the matrix does not allow both Pennsylvania directorships to receive a full term, as that could not occur unless one of the remaining states—Delaware or West Virginia—were to receive the one-year term. With regard to the two Pennsylvania directorships in this class, the board of directors of the Bank must assign the three-year term to the director-elect from Pennsylvania who receives the highest number of votes, with the one-year term going to the director-elect with the second most votes.

For certain other Banks, the methods used for the Pittsburgh Bank will not work because the number of states with guaranteed directorships is greater than the number of three-year terms available. In that case, the rule requires the board of directors of the Bank to assign the full three-year terms and the reduced terms among the guaranteed directorships from the different states; *i.e.,* the three full three-year terms are to be allocated among four or five states. Where several states are involved, each directorship has a different constituency and thus the number of votes received by each candidate cannot be used to rank them. Also, because the number of states with guaranteed directorships is greater than the number of three-year terms available, not all of the states can be treated equally, as was the case with the Pittsburgh Bank. Where equal treatment for all states is not possible, the Finance Board believes that it is most appropriate, as well as consistent with the GLB Act, for the board of directors of each Bank to make the determination as to which states are assigned the reduced term. The matrices reflect that provision, noting that the board of the Bank is required to select one (and in some cases, two) states to receive a reduced term. (As noted earlier, the boards must make this decision before determining the effect to be given to the 1999 election results.)

For example, the Atlanta Bank has four guaranteed directorships with terms commencing on January 1, 2001, representing the members in the District of Columbia, Alabama, Virginia, and South Carolina, respectively. Only three of those seats may receive a full three-year term; the remaining directorship must receive a two-year term in order to comply with the staggering requirement. In this case, the matrix indicates that the board of the Atlanta Bank must decide which of those four directorships is to be assigned a two-year term. The rule provides that the manner in which the board of directors assigns the reduced term to a particular state is entirely within its discretion, so long as the method is reasonable and is used consistently. Thus, the rule allows the board to adopt some objective basis for making the determination or to assign

the terms randomly, such as through a lottery among the affected states.

The Finance Board recognizes that certain directors may have an interest in which state's directorship is to be assigned a reduced term and requested comment on whether it should require such determinations to be made only by the disinterested directors, or whether it should include a ''safe harbor'' provision in the final rule that would allow an interested director, *i.e.,* a director whose directorship may be at risk of being assigned a reduced term, to participate in the decision without being deemed to violate the conflict of interest regulations or the conflict policies of the Bank. The only commenters to address that issue endorsed the concept of a safe harbor provision and the Finance Board has included one in the final rule, which applies to both the decision on ratification of the 1999 election results and the assignment of reduced terms among the states.

For some Banks none of the above scenarios will apply because the guaranteed directorships will consist in part of directorships representing different states and in part of multiple directorships from the same state; *i.e.,* there are two or more states with guaranteed directorships at issue, and one or more of those states has more than one directorship open. For example, the Boston Bank has five guaranteed directorships with terms commencing on January 1, 2001: two are designated to Massachusetts, and one each is designated to Connecticut, Rhode Island, and Maine. There also is one non-guaranteed directorship open, which is a discretionary seat allocated to Connecticut. Because there are three three-year terms to be allocated among four states, the board of directors of the Bank first must determine which one of the four states is to receive the two-year term, as described above with regard to the Atlanta Bank. After doing so, the board then would make any necessary distinctions between directorships from the same state on the basis of the votes received, as in the case of the Pittsburgh Bank. Thus, assuming that the board had assigned one of the three-year terms to one of the two Massachusetts directorships, the board would assign the Massachusetts director-elect who received the most votes (either in the 1999 election or in elections conducted in 2000, as determined by the board of the Bank) to the three-year term. The other guaranteed directorship from Massachusetts would be assigned to the director-elect who received the second highest number of votes. Similarly, the matrix indicates that one of the Connecticut directorships is to be a ''non-guaranteed'' discretionary directorship, while the other is to be a ''guaranteed'' directorship. The rule requires the board of the Boston Bank to assign the non-guaranteed directorship to the Connecticut director-elect who receives the second highest number of votes in the election; the Connecticut director-elect who receives the most votes is to be assigned to the ''guaranteed'' directorship.

With regard to the non-guaranteed directorships, the rule also provides that once a directorship is designated as non-guaranteed it retains that status in all subsequent elections unless it is eliminated by the Finance Board (in the case of a discretionary directorship) or as a consequence of a shift in the relative amounts of Bank stock held by members in different states. If, in connection with a subsequent annual designation of directorships, a directorship allocated to a particular state were to be eliminated or redesignated as representing the members in another state, the non-guaranteed directorship from that state would be eliminated or redesignated. As noted above, the ''non-guaranteed'' designation runs to the directorship itself and not to the individual director, and in any state in which both a guaranteed and non-guaranteed directorship are to be filled in the same election, the guaranteed directorship will be awarded to the candidate receiving the most votes. The final rule provides expressly that in all elections subsequent to 2001 the non-guaranteed directorships are to be assigned based on the number of votes received, with the directors receiving the fewest number of votes receiving the non-guaranteed directorships.

With regard to the non-guaranteed directorships, the matrices have assigned terms to those directorships in a manner that is consistent with the one-third staggering requirement of the GLB Act, as noted previously. For example, the two non-guaranteed directorships at the Boston Bank have been assigned a two- and one-year term, respectively, which both places them into the same class of directors and results in a ''4–3–3'' class structure, which is consistent with the GLB Act. In the event that one or both of those directorships were to be eliminated, the elected directorships would be grouped either into a ''3–3–3'' class structure or the ''2–3–3'' structure of the guaranteed directorships, thus maintaining the one-third staggering of the board.

Eligibility of Directors. The rule also amends provisions regarding the eligibility of directors to remain in office if the directorship to which they have been elected is redesignated as representing members in another state or is eliminated. As noted above, it is possible that shifting stock ownership among the members in different states could cause the designation of a directorship to change during the course of an incumbent's term of office, or for the seat to disappear. The rule provides that an elected director becomes ineligible to remain in office if the directorship is designated to another state during that director's term of office, or if the directorship is eliminated, and that the loss of eligibility takes effect on December 31 of the year in which the directorship is redesignated or eliminated. In the case of an eliminated directorship, the directorship simply disappears at the end of the year, and there is no seat for the incumbent director to fill. In the case of the redesignation of a directorship to another state, the directorship continues after the end of the year, but it becomes vacant as of December 31st (because the incumbent no longer is an officer or director of a member represented by the directorship) and the board of directors of the Bank fills the vacancy for the remainder of the unexpired term, in accordance with Section 7(f) of the Bank Act, with an officer or director of a member located in the newly-designated state. The rule makes a similar change to the provisions regarding appointed directors, providing that any appointed directorship that has been created in conjunction with the creation of additional elected directorships (in accordance with Section 7(a) of the Bank Act) is to terminate on December 31 of the year in which the associated elected directorship is terminated.

Certain commenters raised questions about the loss of eligibility of a person who otherwise would have been elected to the board of a Bank in the 1999 elections. One Bank asked how it should deal with a situation in which the nominee receiving the most votes in the 1999 election is now ineligible to serve, but the nominee receiving the second most votes in that election remains eligible. Another Bank asked a similar question, about how it should deal with the loss of eligibility by a director-elect that occurs after the Bank has declared the results of the 1999 election. As noted previously, the Finance Board believes that a person must be eligible to serve as a Bank director at several points in the election process, such as when nominated, when elected, and when commencing service on the board of the Bank. If a person

ceases to be eligible to serve after being nominated but before the ballots are distributed, the Finance Board expects that the Bank would exclude that person from the ballot. If the loss of eligibility were to occur after the ballots were distributed but before the Bank had tabulated the results of the election, the Finance Board expects that the Bank would not declare that person to have been elected, even if that person received the most votes, but should instead declare elected the eligible nominee who received the most votes. If, after the Bank had declared elected those eligible nominees with the most votes, a director-elect were to become ineligible to serve, the Finance Board believes that the director-elect could not be seated as a member of the Bank's board, which would create a vacancy on the board as of the next January 1st, and that the board would fill the vacancy in accordance with Section 7(f) of the Bank Act. The final rule includes a provision providing that a Bank shall not declare elected a nominee that it has reason to know is ineligible to serve, nor shall it seat a director-elect that it has reason to know is ineligible to serve.

Conforming Amendments. The proposed rule included a number of conforming amendments to other provisions of the regulations to remove references that no longer are accurate in light of the GLB Act and to be consistent with the other elements of the proposed rule. One such amendment addressed the term ''bona fide resident'' of a Bank district, as used in the definitions included at 12 CFR 915.1. The GLB Act amended Section 7(a) of the Bank Act to provide that a director of a Bank must be either a bona fide resident of the Bank district or an officer or director of a member located in the district. Previously, that provision had simply required that a Bank director be, among other things, a bona fide resident of the district. The proposed rule would have revised the definition of ''bona fide resident of a Bank district'' to include an officer or director of a member located in that Bank district. As a technical matter, the Bank Act establishes these as alternatives, *i.e.,* an elected Bank director must be either an officer or director of a member located in the Bank district or must be a bona fide resident of the district. As such, the proposed rule should not have treated the ''officer or director'' requirement as though it were a subset of the term ''bona fide resident.'' The final rule corrects this provision by eliminating from the definition of ''bona fide resident'' the reference to an individual being an ''officer or director of a member'' located within that district. The final rule retains the existing provisions of the term ''bona fide resident'' as applied to appointed directors. Thus, an appointed director will continue to be considered a bona fide resident of the district if he or she maintains a principal residence within the district or owns or leases a residence in his or her own name within the district and also is employed within the district. The statutory change made by the GLB Act with regard to elected directors is more expansive than the prior regulatory definition of bona fide resident as applied to elected directors. Thus, the final rule removes from the definition of bona fide resident the provision allowing an elected director to qualify by owning or leasing a residence (other than a principal residence) within the district so long as he or she was an officer or director of a member in a state within the district. Because the terms ''officer'' and ''director'' of a member are well understood, the Finance Board is not including a separate definition of those terms in the final rule. The final rule includes a conforming amendment to § 915.7, which clarifies that an elected director need not be a bona fide resident of the district if he or she is an officer or director of a member located in the district, which reflects the amendments made by the GLB Act. In the event that questions may arise about whether a particular individual is either an officer or director of a member, the Finance Board anticipates that such matters could be addressed on a case by case basis, such as through staff interpretations.

V. Regulatory Flexibility Act

The final rule applies only to the Finance Board and to the Federal Home Loan Banks, which do not come within the meaning of small entities as defined in the Regulatory Flexibility Act (RFA). *See* 5 U.S.C. 601(6). Thus, in accordance with section 605(b) of the RFA, 5 U.S.C. 605(b), the Finance Board hereby certifies that the final rule will not have a significant impact on a substantial number of small entities.

VI. Paperwork Reduction Act

The final rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 33 U.S.C. *et seq.* Therefore, the Finance Board has not submitted any information to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 915

Banks, banking, Conflict of interests, Elections, Ethical conduct, Federal home loan banks, Financial disclosure, Reporting and recordkeeping requirements.

Accordingly, the Federal Housing Finance Board hereby amends title 12, chapter IX, part 915 of the Code of Federal Regulations, as follows:

PART 915—DIRECTORS, OFFICERS, AND EMPLOYEES OF THE BANKS

1. The authority citation for part 915 continues to read as follows:

Authority: 12 U.S.C. 1422a(a)(3), 1422b(a), 1426, 1427, and 1432.

2. Amend § 915.1 by removing the paragraph (2) of the definition of ''bona fide resident of a Bank district'' and redesignating paragraph (3) as paragraph (2), and by adding in alphabetical order definitions of ''discretionary directorship'', ''guaranteed directorship'', ''non-guaranteed directorship'', and ''stock directorship'' to read as follows:

§ 915.1 Definitions.

* * * * *

Discretionary directorship means an elective or appointive directorship created by the Finance Board pursuant to Section 7(a) of the Act for districts that include five or more states.

Guaranteed directorship means an elective directorship that is required by Section 7(b) of the Act and § 915.15 to be designated as representing Bank members that are located in a particular state.

Non-guaranteed directorship means an elective directorship that is either a discretionary directorship or a stock directorship.

* * * * *

Stock directorship means an elective directorship that is designated by the Finance Board as representing the members located in a particular state based on the amount of Bank stock held by the members in that state, and which is in excess of the number of guaranteed directorships allocated to that state.

* * * * *

3. Amend § 915.3 by:

a. Revising the fourth sentence of paragraph (a);

b. Adding two new sentences at the end of paragraph (b)(5);

c. Revising the second sentence in paragraph (c); and

d. Revising paragraph (e) to read as follows:

§ 915.3 Director elections.

(a) * * * The term of office of each elective director shall be three years, except as adjusted pursuant to Section 7(d) of the Act and § 915.17 of this chapter to achieve a staggered board,

and shall commence on January 1 of the calendar year immediately following the year in which the election is held. * * *

(b) * * *

(5) * * * The annual designation of directorships shall indicate the number of discretionary directorships, if any, to be authorized for the succeeding year. If the Finance Board eliminates an existing discretionary directorship, or designates such a directorship to another state, the term of any appointive or elective director affected by that action shall terminate after the close of business on the immediately following December 31.

(c) * * * If the annual designation of elective directorships results in an existing stock directorship being redesignated as representing members in a different state, the notice also shall state that the directorship must be filled by an officer or director of a member located in the newly designated state as of January 1 of the immediately following year, regardless of whether the term for the incumbent director would have expired by that date.

* * * * *

(e) *2000 designation.* For any stock directorship with a term ending December 31, 2001 that is redesignated from one state to another state by the 2000 designation of directorships, the board of directors of the Bank shall determine which incumbent director from the former state shall become ineligible to serve as a result of the redesignation on the basis of the most recent election.

4. Amend § 915.7 by:

a. Adding a new sentence at the end of paragraph (a);

b. Removing paragraph (b)(2);

c. Revising paragraph (b)(3) and redesignating it as paragraph (b)(2);

d. Adding a new paragraph (c)(4); and

e. Adding a new paragraph (d), to read as follows:

§ 915.7 Eligibility requirements for elective directors.

(a) *Eligibility verification.* * * * A Bank shall not declare elected a nominee that it has reason to know is ineligible to serve, nor shall it seat a director-elect that it has reason to know is ineligible to serve.

(b) *Eligibility requirements.* * * *

(2) A bona fide resident of the Bank district or an officer or director of a member that is located in the voting state to be represented by the elective directorship, that was a member of the Bank as of the record date, and that meets all minimum capital requirements established by its appropriate federal regulator or appropriate state regulator.

(c) *Restrictions.* * * *

(4) For purposes of applying the term limit provision of Section 7(d) of the Act, a term of office that has been adjusted to a period of less than three years in accordance with § 915.17(a)(2) shall not be deemed to be a full term.

(d) *Loss of eligibility.* (1) An elective director shall become ineligible to remain in office if, during his or her term of office, the stock directorship to which he or she has been elected is eliminated or is redesignated by the Finance Board as representing members located in another state, in accordance with § 915.3(b). The incumbent director shall become ineligible after the close of business on December 31 of the year in which the directorship is redesignated or eliminated.

(2) In the case of a redesignation to another state, the stock directorship shall become vacant after the close of business on December 31 of the year in which the directorship is redesignated and the resulting vacancy shall be filled by the board of directors of the Bank for the remainder of the unexpired term with a person who is an officer or director of a member located in the newly designated state, pursuant to Section 7(f) of the Bank Act.

5. Amend § 915.8, by revising the first sentence of paragraph (b) to read as follows:

§ 915.8 Election process.

* * * * *

(b) *Lack of nominees.* If, for any voting state, all directorships to be filled in an election are the same with regard to their respective terms and status as guaranteed or non-guaranteed directorships, and the number of nominees from that state is equal to or less than the number of such directorships, the Bank shall notify the members in the affected voting state in writing (in lieu of providing a ballot) that the directorships are to be filled without an election due to a lack of nominees. * * *

* * * * *

6. Amend § 915.10, by revising paragraph (b), to read as follows:

§ 915.10 Selection of appointive directors.

* * * * *

(b) *Term of office.* The term of office of each appointive directorship shall be three years, except as adjusted pursuant to Section 7(d) of the Act to achieve a staggered board, and shall commence on January 1. In appointing directors for the terms commencing on January 1, 2001 and 2002, respectively, the Finance Board shall adjust the terms of any appointive directorships as necessary to achieve the one-third staggering of the board of directors required by Section 7(d) of the Act, in accordance with the requirements of this Part and the applicable matrix from the Appendix to this Part. In the case of a discretionary appointive directorship that is terminated pursuant to § 915.3(b)(5), the term of office of the directorship shall end after the close of business on December 31 of that year.

7. Add new § 915.16 to read as follows:

§ 915.16 1999 and 2000 Election of Directors.

(a) *In general.* The annual designation of Bank directorships conducted by the Finance Board in 2000 pursuant to § 915.3(b) shall control with respect to the number of elective directorships to be allocated to each state with terms commencing on January 1, 2001.

(b) *Conduct of 2000 elections.* After assigning any adjusted terms that may be required by § 915.17(a)(3), the board of directors of each Bank shall determine either:

(1) To conduct new elections for every state in the district for which an elective directorship is to commence on January 1, 2001, or

(2) To conduct new elections only in those states for which this section requires a new election to be held and, for all other states within the district, to use the results of the 1999 elections for the purpose of electing directors whose terms are to commence on January 1, 2001.

(c) *1999 election results.* If the number of nominees from any state for the 1999 election of directors who remain eligible to serve as a Bank director equals or exceeds the number of directorships designated to that state with terms commencing on January 1, 2001, the board of directors of the Bank may declare elected the nominee receiving the most votes in the 1999 election and, if more than one directorship is to be filled for that state, shall also declare elected each successive nominee receiving the next greatest number of votes, until all directorships designated for that state are filled. Before declaring elected any such nominee, the board of directors of the Bank shall confirm that the nominee is eligible to serve as a director from that state.

(d) *2000 elections.* If the number of directorships designated to any state with terms commencing on January 1, 2001, exceeds the number of nominees from that state in the 1999 election who remain eligible to serve as a Bank director, then the board of directors of the Bank shall conduct a new election for that state for all of the directorships

with terms commencing on January 1, 2001.

(e) *Report of election*. If the board of directors of a Bank adopts the 1999 election results for any state, it shall provide written notice of its decision to the Finance Board, the directors-elect, and to each member in the affected state. The notice shall indicate the date on which the term of office of each director-elect shall expire, and shall indicate which terms have been adjusted in order to stagger the board of directors as required by Section 7(d) of the Bank Act. Any such adjustments shall be made in compliance with § 915.17. Such notice shall be deemed to constitute the report of election for the 2000 election required by § 915.8(e).

(f) *Safe harbor*. In determining whether to ratify the 1999 election results or to hold new elections in 2000, an individual director that would be affected by the decision of the board shall not be deemed to have violated any regulation or Bank policy pertaining to conflicts of interest solely by virtue of having participated in the deliberations or by having voted on the matter.

8. Add new § 915.17 to read as follows:

§ 915.17 Staggered directorships in the 2000 and 2001 elections.

(a) *In general*. (1) In conjunction with the annual designations of directorships for elected directors with terms commencing on January 1, 2001 and January 1, 2002, the Finance Board shall, in addition to allocating directorships among the states, indicate the term of each elective directorship and which directorships are to be designated as non-guaranteed directorships. A non-guaranteed directorship shall retain that designation in all subsequent elections, unless the directorship is eliminated by the Finance Board pursuant to Section 7(a) of the Bank Act or as a consequence of a change in the amount of Bank stock held by members located in that state. In such subsequent elections, any non-guaranteed directorships shall be assigned on the basis of votes received, with the directors-elect who received the fewest votes being assigned the non-guaranteed directorships.

(2) The board of directors of each Bank shall adjust the terms of any directorships that are to commence on January 1, 2001 or January 1, 2002, in accordance with this section and the matrix for that Bank set forth in the appendix to this part, and shall inform the Finance Board which directorships have been assigned adjusted terms.

(3) Where the matrix for a Bank indicates that two or more guaranteed directorships are to be filled by persons elected from different states in the same year, and which are to have different terms, the board of directors of the Bank shall assign the shorter terms among the states on any reasonable basis, as determined by Bank's board, provided that:

(i) It uses the same methodology in making all such adjustments; and

(ii) It assigns the terms to the respective states before determining whether to adopt the 1999 election results, in accordance with § 915.16(b).

(b) *Adjustment of terms*. (1) Where the matrix for a Bank indicates that two or more guaranteed directorships are to be filled from the same state in the same year, but which are to have different terms, the board of directors of the Bank shall assign the terms among the eligible nominees who have received a sufficient number of votes to be elected, such that the nominees receiving the greater number of votes are assigned the longer terms and those nominees receiving the lesser number of votes are assigned the shorter terms. If the directors from any state have been declared elected without a vote, in accordance with § 915.8(b) because the number of nominees from that state was less than or equal to the number of directorships to be filled, then the board of directors of Bank shall assign the terms on the basis of the most recent election.

(2) In the elections occurring in 2000 and 2001, if the matrix for any Bank indicates that both guaranteed and non-guaranteed directorships are to be filled from the same state in the same year, the board of directors shall assign directorships among the eligible nominees who have received a sufficient number of votes to be elected, such that the nominees receiving the greatest number of votes are assigned the guaranteed directorships and those nominees receiving the fewest votes are assigned the non-guaranteed directorships. In the event that the matrix for a Bank assigns a guaranteed directorship for a particular state a shorter term than it assigns to a non-guaranteed directorship for the same state for that year, the board of directors shall assign the guaranteed directorship to the nominee receiving the greatest number of votes.

(c) *Safe harbor*. In determining which directorships shall be assigned a reduced term, an individual director that could be affected by the decision of the board shall not be deemed to have violated any regulation or Bank policy pertaining to conflicts of interest solely by virtue of having participated in the deliberations or by having voted on the matter.

(d) *Other adjustments*. The board of directors of the Bank may not adjust the term of any director other than as provided in this section.

9. Add a new appendix A to part 915 to read as follows:

Appendix A to Part 915 [Added]

Appendix A to Part 915—Staggering For FHLBank Boards of Directors

TABLE 1

Boston FHLBank (10 seats: 8 guaranteed by statute and 2 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
6 Seats to be filled in 2000 Election:			
	*Board must allocate 1 Seat to a 2-year term.		
Mass. Seat	3/2 Years*.		
Conn. Seat	3/2 Years*.		
Maine Seat	3/2 Years*.		
R. I. Seat	3/2 Years*.		
Mass. Seat	2 Years.		
Conn. Seat	2 Years	Not Guaranteed (Discretionary Seat).	

TABLE 1—Continued

Boston FHLBank (10 seats: 8 guaranteed by statute and 2 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
4 Seats to be filled in 2001 Election:			
Mass. Seat	3 Years.		
N.H. Seat	3 Years.		
Vermont Seat	3 Years.		
Mass. Seat	1 Year	Not Guaranteed (Discretionary Seat).	
Class with Terms Expiring Dec. 31, 2002 (4 seats):			
Mass./Conn./Maine/Rhode Island Seat (board to pick 1 of 4)			
Mass. Seat			
Conn. Seat (not guaranteed by statute)			
Mass. Seat (not guaranteed by statute)			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
Mass./Conn./Maine/Rhode Island Seat (board to pick 3 of 4)			
Class with Terms Expiring Dec. 31, 2004 (3 seats):			
Mass. Seat			
N.H. Seat			
Vermont Seat			

TABLE 2

N.Y. FHLBank (11 Seats: 9 Guaranteed by Statute and 2 Not Guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 3–3–3 Total staggering: 3–4–4
7 Seats to be filled in 2000 election:			
New York Seat	3 Years.		
New Jersey Seat	3 Years.		
Puerto Rico Seat	3 Years.		
New York Seat	3 Years	Not Guaranteed (Stock Seat).	
New York Seat	2 Years.		
New York Seat	2 Years.		
New Jersey Seat	2 Years.		
4 Seats to be filled in 2001 election:			
New York Seat	3 Years.		
New York Seat	3 Years	Not Guaranteed (Stock Seat).	
New Jersey Seat	3 Years.		
New Jersey Seat	3 Years.		
Class with Terms Expiring Dec. 31, 2002 (3 seats):			
New York Seat			
New York Seat			
New Jersey Seat			
Class with Terms Expiring Dec. 31, 2003 (4 seats):			
New York Seat			
New York Seat (not guaranteed by statute)			
New Jersey Seat			
Puerto Rico Seat			
Class with Terms Expiring Dec. 31, 2004 (4 seats):			
New York Seat			
New York Seat (not guaranteed by statute)			
New Jersey Seat			
New Jersey Seat			

TABLE 3

Pitts. FHLBank (8 seats: all guaranteed by statute)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 2–3–3
4 Seats to be filled in 2000 Election:			
Penn. Seat	3 Years.		
Penn. Seat	3 Years.		
Penn. Seat	3 Years.		
Penn. Seat	2 Years.		
4 Seats to be filled in 2001 Election			
West Va. Seat	3 Years.		
Delaware Seat	3 Years.		
Penn. Seat	3 Years.		
Penn. Seat	1 Year.		

TABLE 3—Continued

Pitts. FHLBank (8 seats: all guaranteed by statute)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 2–3–3
Class with Terms Expiring Dec. 31, 2002 (2 seats):			
Penn. Seat			
Penn Seat			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
Penn. Seat			
Penn. Seat			
Penn. Seat			
Class with Terms Expiring Dec. 31, 2004 (3 seats):			
Penn. Seat			
Delaware Seat			
West Va. Seat			

TABLE 4

Atlanta FHLBank (9 Seats: 8 guaranteed by statute and 1 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 3–3–3
4 Seats to be filled in 2000 Election:			
	* Board must allocate 1 Seat to a 2-year term.		
D.C. Seat	3/2 Years*.		
Alabama Seat	3/2 Years*.		
Virginia Seat	3/2 Years*.		
S. Carolina Seat	3/2 Years*.		
5 Seats to be filled in 2001 Election:			
	* Board must allocate 1 Seat to a 1-year term		
N. Carolina Seat	3/1 Years*.		
Georgia Seat	3/1 Years*.		
Maryland Seat	3/1 Years*.		
Florida Seat	3/1 Years*.		
N. Carolina Seat	1 Year*.	Not Guaranteed (Discretionary Seat).	
Class with Terms Expiring Dec. 31, 2002 (3 seats):			
North Carolina Seat (not guaranteed by statute)			
D.C./Alabama/Virginia/So. Carolina Seat (board to pick 1 of 4)			
No. Carolina/Georgia/Maryland/Florida Seat (board to pick 1 of 4)			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
D.C./Alabama/Virginia/So. Carolina Seat (board to pick 3 of 4)			
Class with Terms Expiring Dec. 31, 2004 (3 seats):			
No. Carolina/Georgia/Maryland/Florida Seat (board to pick 3 of 4)			

TABLE 5

Cincinnati FHLBank (9 seats: 8 guaranteed by statute and 1 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 3–3–3
4 Seats to be filled in 2000 Election:			
	* Board must allocate 1 Seat to a 2-year term.		
Kentucky Seat	3 Years.		
Ohio Seat	3 Years.		
Kentucky Seat	3/2 Years*.		

TABLE 5—Continued

Cincinnati FHLBank (9 seats: 8 guaranteed by statute and 1 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 3–3–3
Ohio Seat	3/2 Years*.		
5 Seats to be filled in 2001 Election:			
	*Board must allocate 1 Seat to a 1-year term.		
Ohio Seat	3 Years.		
Tennessee Seat	3 Years.		
Tennessee Seat	3/1 Years*.		
Ohio Seat	3/1 Years*.		
Ohio Seat	1 Year	Not Guaranteed (Stock Seat).	
Class with Terms Expiring Dec. 31, 2002 (3 seats):			
Kentucky or Ohio Seat (board to decide)			
Ohio Seat (not guaranteed by statute)			
Tennessee or Ohio Seat (board to decide)			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
Kentucky Seat			
Ohio Seat			
Kentucky or Ohio Seat (board to decide)			
Class with Terms Expiring Dec. 31, 2004 (3 seats):			
Ohio Seat			
Tennessee Seat			
Tennessee or Ohio Seat (board to decide)			

TABLE 6

Indianapolis FHLBank (10 seats: 8 guaranteed by statute and 2 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
4 Seats to be filled in 2000 Election:			
Indiana Seat	3 Years.		
Indiana Seat	3 Years.		
Michigan Seat	3 Years.		
Indiana Seat	2 Years.		
6 Seats to be filled in 2001 Election:			
	*Board must allocate 1 Seat to a 1-year term.		
Michigan Seat	3 Years.		
Indiana Seat	3 Years.		
Michigan Seat	3/1 Years*.		
Indiana Seat	3/1 Years*.		
Michigan Seat	1 Year	Not Guaranteed (Stock Seat).	
Michigan Seat	1 Year	Not Guaranteed (Stock Seat).	
Class with Terms Expiring Dec. 31, 2002 (4 seats):			
Indiana Seat.			
Michigan or Indiana Seat (board to decide).			
Michigan Seat (not guaranteed by statute).			
Michigan Seat (not guaranteed by statute).			
Class with Terms Expiring Dec. 31, 2003 (3 seats).			
Indiana Seat.			
Indiana Seat.			
Michigan Seat.			
Class with Terms Expiring Dec. 31, 2004 (3 seats).			
Michigan Seat.			
Indiana Seat.			
Michigan or Indiana Seat (board to decide).			

TABLE 7

Chicago FHLBank (10 seats: 8 guaranteed by statute and 2 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
4 Seats to be filled in 2000 Election:			
Illinois Seat	3 Years.		

TABLE 7—Continued

Chicago FHLBank (10 seats: 8 guaranteed by statute and 2 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
Wisconsin Seat	3 Years.		
Wisconsin Seat	3 Years.		
Wisconsin Seat	2 Years.		
6 Seats to be filled in 2001 Election:			
Wisconsin Seat	3 Years.		
Illinois Seat	3 Years.		
Illinois Seat	3 Years.		
Illinois Seat	1 Year.		
Illinois Seat	1 Year.	Not Guaranteed (Stock Seat).	
Illinois Seat	1 Year.	Not Guaranteed (Stock Seat).	
Class with Terms Expiring Dec. 31, 2002 (4 seats)			
Wisconsin Seat			
Illinois Seat			
Illinois Seat (not guaranteed by statute)			
Illinois Seat (not guaranteed by statute)			
Class with Terms Expiring Dec. 31, 2003 (3 seats)			
Illinois Seat			
Wisconsin Seat			
Wisconsin Seat			
Class with Terms Expiring Dec. 31, 2004 (3 seats)			
Wisconsin Seat			
Illinois Seat			
Illinois Seat			

TABLE 8

Des Moines Bank (10 seats: 8 guaranteed by statute and 2 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
6 Seats to be filled in 2000 Election:			
	* Board must allocate 1 Seat to a 2-year term		
Missouri Seat	3/2 Years*.		
South Dakota Seat	3/2 Years*.		
Iowa Seat	3/2 Years*.		
Minnesota Seat	3/2 Years*.		
Iowa Seat	2 Years.		
Minnesota Seat	2 Years	Not Guaranteed (Stock Seat).	
4 Seats to be filled in 2001 Election:			
Missouri Seat	3 Years.		
Minnesota Seat	3 Years.		
North Dakota Seat	3 Years.		
Missouri Seat	1 Year	Not Guaranteed (Discretionary Seat).	
Class with Terms Expiring Dec. 31, 2002 (4 seats):			
Iowa Seat			
Missouri/So.Dakota/Iowa/Minnesota Seat (board to pick 1 of 4)			
Minnesota Seat (not guaranteed by statute)			
Missouri Seat (not guaranteed by statute)			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
Missouri/So. Dakota/Iowa/Minnesota Seat (board to pick 3 of 4)			
Class with Terms Expiring Dec. 31, 2004 (3 seats):			
Missouri Seat			
Minnesota Seat			
North Dakota Seat			

TABLE 9

Dallas FHLBank (9 seats: 8 guaranteed by statute and 1 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 3–3–3
4 Seats to be filled in 2000 Election:			
Texas Seat	3 Years.		

TABLE 9—Continued

Dallas FHLBank (9 seats: 8 guaranteed by statute and 1 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 3–3–3
Louisiana Seat	3 Years.		
Arkansas Seat	3 Years.		
Louisiana Seat	2 Years.		
5 Seats to be filled in 2001 Election:			
Texas Seat	3 Years.		
Mississippi Seat	3 Years.		
New Mexico Seat	3 Years.		
Texas Seat	1 Year.		
Texas Seat	1 Year	Not Guaranteed (Stock Seat).	
Class with Terms Expiring Dec. 31, 2002 (3 seats):			
Louisiana Seat			
Texas Seat			
Texas Seat (not guaranteed by statute)			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
Texas Seat			
Louisiana Seat			
Arkansas Seat			
Class with Terms Expiring Dec. 31, 2004 (3 seats):			
Texas Seat			
Mississippi Seat			
New Mexico Seat			

TABLE 10

Topeka FHLBank (10 seats: 8 guaranteed by statute and 2 not guaranteed)	Term	Non-Guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
5 Seats to be filled in 2000 Election:			
Colorado Seat	3 Years.		
Oklahoma Seat	3 Years.		
Kansas Seat	3 Years.		
Colorado Seat	2 Years.		
Kansas Seat	2 Years.		
5 Seats to be filled in 2001 Election:			
Kansas Seat	3 Years.		
Oklahoma Seat	3 Years.		
Nebraska Seat	3 Years.		
Nebraska Seat	1 Year	Not Guaranteed (Stock Seat).	
Nebraska Seat	1 Year	Not Guaranteed (Stock Seat).	
Class with Terms Expiring Dec. 31, 2002 (4 seats):			
Colorado Seat			
Kansas Seat			
Nebraska Seat (not guaranteed by statute)			
Nebraska Seat (not guaranteed by statute)			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
Colorado Seat			
Oklahoma Seat			
Kansas Seat			
Class with Terms Expiring Dec. 31, 2004 (3 seats):			
Kansas Seat			
Oklahoma Seat			
Nebraska Seat			

TABLE 11

San Francisco FHLBank (8 seats: 5 guaranteed by statute and 3 not guaranteed)	Terms	Non-guaranteed seats	Guaranteed staggering: 1–2–2 Total staggering: 2–3–3
4 Seats to be filled in 2000 Election:			
California Seat	3 Years.		
California Seat	3 Years.		
California Seat	3 Years	Not Guaranteed (Stock Seat).	
California Seat	2 Years	Not Guaranteed (Stock Seat).	

TABLE 11—Continued

San Francisco FHLBank (8 seats: 5 guaranteed by statute and 3 not guaranteed)	Terms	Non-guaranteed seats	Guaranteed staggering: 1–2–2 Total staggering: 2–3–3
4 Seats to be filled in 2001 Election:			
	*Board must allocate 1 seat to a 1-year term		
California Seat	3/1 Years*.		
Nevada Seat	3/1 Years*.		
Arizona Seat	3/1 Years*.		
California Seat	1 Year	Not Guaranteed (Stock Seat).	
Class with Terms Expiring Dec. 31, 2002 (3 seats):			
California/Nevada/Arizona Seat (board to pick 1 of 3)			
California Seat (not guaranteed by statute)			
California Seat (not guaranteed by statute)			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
California Seat			
California Seat			
California Seat (not guaranteed by statute)			
Class with Terms Expiring Dec. 31, 2004 (2 seats):			
California/Nevada/Arizona Seat (board to pick 2 of 3)			

TABLE 12

Seattle FHLBank (10 seats: 8 guaranteed by statute and 2 not guaranteed)	Term	Non-guaranteed seats	Guaranteed staggering: 2–3–3 Total staggering: 4–3–3
5 Seats to be filled in 2000 Election:			
Hawaii Seat	3 Years.		
Utah Seat	3 Years.		
Alaska Seat	3 Years.		
Washington Seat	2 Years	Not Guaranteed (Discretionary Seat).	
Washington Seat	2 Years	Not Guaranteed (Discretionary Seat).	
5 Seats to be filled in 2001 Election:			
	* Board must allocate 2 seats to 1-year terms		
Montana Seat	3/1 Years*.		
Oregon Seat	3/1 Years*.		
Washington Seat	3/1 Years*.		
Idaho Seat	3/1 Years*.		
Wyoming Seat	3/1 Years*.		
Class with Terms Expiring Dec. 31, 2002 (4 seats):			
Montana/Oregon/Idaho/Wyoming/Washington Seat (board to pick 2 of 5)			
Washington Seat (not guaranteed by statute)			
Washington Seat (not guaranteed by statute)			
Class with Terms Expiring Dec. 31, 2003 (3 seats):			
Hawaii Seat			
Utah Seat			
Alaska Seat			
Class with Terms Expiring Dec. 31, 2004 (3 seats):			
Montana/Oregon/Idaho/Wyoming/Washington Seat (board to pick 3 of 5)			

Dated: June 23, 2000.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairman.

[FR Doc. 00–16964 Filed 7–5–00; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–57]

Realignment of Federal Airways; MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns five Federal airways in the Marquette, MI, area. This action will realign the affected Federal airways from the Marquette Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) to the Sawyer VOR/DME (previously named Gwinn in the notice). The FAA is taking this action due to the

decommissioning of the Marquette VOR/DME and the commissioning of the Sawyer VOR/DME, which will be located approximately 15 nautical miles (NM) to the southeast of the present location of the Marquette VOR/DME. In addition, this action renames the current VOR/DME from the Gwinn VOR/DME to the Sawyer VOR/DME and amends the legal description of V–316 to include the Newberry VOR/DME.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

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

SUPPLEMENTARY INFORMATION:

Background

The location of the new facility (previously named Gwinn) is located on the Sawyer International Airport. Therefore, in accordance with standard procedures the facility is renamed Sawyer. On May 21, 2000, the FAA proposed to amend several VOR Federal airways in the vicinity of Sawyer, MI, due to the decommissioning of the Marquette VOR/DME and the commissioning of the Sawyer VOR/DME (65 FR 21682). During the flight check of V–316 it was determined the route between the Sawyer VOR/DME and the Sault Ste Marie VORTAC was unsatisfactory. As a result, the FAA altered V–316 to the south approximately 3 NM to the Newberry VOR/DME.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. Except for editorial changes, the name change of the facility from ''Gwinn'' to ''Sawyer'' and the change to V–316 to include the Newberry VOR/DME, this amendment is the same as that proposed in the notice.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) realigns five Federal airways due to the decommissioning of the Marquette VOR/DME and the commissioning of the new Sawyer VOR/DME. Specifically, V–7, V–133, V–224, V–316, and V–341 are realigned from their former routes to the Sawyer VOR/DME. The Sawyer VOR/DME is located approximately 15 NM southeast of the former Marquette location. In addition, as a result of an unsatisfactory flight check the FAA is amending V–316 to include the Newberry VOR/DME. Additionally, in accordance with standard procedures the facility is renamed Sawyer. The FAA is taking this action to manage the navigable airspace and support navigational requirements in the vicinity of Marquette, MI.

Domestic VOR Federal airways are published in Section 6010(a) of FAA Order 7400.9G dated September 1, 1999, and effective September 16, 1999, which is incorporated by reference in 14 CFR 71.1. The Federal airways listed in this document will be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E, AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9G, Airspace Designations and Reporting Points, dated September 1, 1999, and effective September 16, 1999, is amended as follows:

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–7 [Revised]

From Dolphin, FL; INT Dolphin 299° and Lee County, FL, 120° radials; Lee County; Lakeland, FL; Cross City, FL; Seminole, FL; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; Montgomery; Vulcan, AL; Muscle Shoals, AL; Graham, TN; Central City, KY; Pocket City, IN; INT Pocket City 016° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; INT Chicago Heights 358° and Falls, WI, 170° radials; Falls; Green Bay, WI; Menominee, MI; to Sawyer, MI. The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.

* * * * *

V–133 [Revised]

From INT Charlotte, NC, 305° and Barretts Mountain, NC, 197° radials; Barretts Mountain; Charleston, WV; Zanesville, OH; Tiverton, OH; Mansfield, OH; INT Mansfield 349° and Detroit, MI, 141° radials; Detroit; Salem, MI; INT Salem 346°and Saginaw, MI, 160° radials; Saginaw; Traverse City, MI; Escanaba, MI; Sawyer, MI; Houghton, MI; Thunder Bay, ON, Canada; International Falls, MN; to Red Lake, ON, Canada. The airspace within Canada is excluded.

* * * * *

V–224 [Revised]

From Saywer, MI; to Schoolcraft County, MI.

* * * * *

V–316 [Revised]

From Ironwood, MI; Sawyer, MI; Newberry, MI; Sault Ste Marie, MI; thence via Sault Ste Marie 091° radial to Elliot Lake, ON, Canada, NDB; thence to Sudbury, ON, Canada, via the 259° radial to Sudbury. The airspace within Canada is excluded.

* * * * *

V–341 [Revised]

From Cedar Rapids, IA; Dubuque, IA; Madison, WI; Oshkosh, WI; Green Bay, WI; Menominee, MI; Iron Mountain, MI; Sawyer, MI; to Houghton, MI.

* * * * *

Issued in Washington, DC, on June 28, 2000.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 00–17063 Filed 7–5–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 30094; Amdt. No. 423]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, August 10, 2000.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC on June 23, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, August 10, 2000.

PART 95—[AMENDED]

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 423, Effective Date: August 10, 2000. Final]

From	To	MEA
Color Routes § 95.4008 Green Federal Airway 8 Is Amended to Read in Part		
DUTCH HARBOR, AK NDB/DME	MORDI, AK FIX	*9,000
*5,700—MOCA		
MORDI, AK FIX	ELFEE, AK NDB	*8,000
*5,300—MOCA		
ELFEE, AK NDB	CRACK, AK FIX	*5,000
*4,100—MOCA		
CRACK, AK FIX	SALDO, AK NDB	*3,000
*2,300—MOCA		
SALDO, AK NDB	NOSKY, AK FIX	*6,000
*4,900—MOCA		
NOSKY, AK FIX	KACHEMAK, AK NDB	6,000
§ 95.2099 Red Federal Airway 99 Is Amended to Read in Part		
NOSKY, AK FIX	KACHEMAK, AK NDB	6,000
Victor Routes-U.S. § 95.6005 VOR Federal Airway 5 Is Amended to Read in Part		
LOUISVILLE, KY VORTAC	NERVE, KY FIX	*10000

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 423, Effective Date: August 10, 2000. Final]

From	To	MEA
*2500—MOCA NERVE, KY FIX	CINCINNATI, KY VORTAC	2700
§ 95.6006 VOR Federal Airway 6 Is Amended to Read in Part		
TOUHY, NE FIX	OMAHA, NE VORTAC	4,000
§ 95.6007 VOR Federal Airway 7 Is Amended to Read in Part		
MENOMINEE, MI VOR/DME	SAWYER, MI VOR/DME	2900
§ 95.6008 VOR Federal Airway 8 Is Amended to Read in Part		
TOUHY, NE FIX	OMAHA, NE VORTAC	4,000
§ 95.6009 VOR Federal Airway 9 Is Amended to Read in Part		
IRON MOUNTAIN, MI VORTAC *3,300—MOCA	HOUGHTON, MI VOR/DME	*3800
§ 95.6013 VOR Federal Airway 13 Is Amended to Read in Part		
WORRY, TX FIX *2,300—MRA	*AUSTS, TX FIX	1,700
FARMINGTON, MN VORTAC *5,500—MRA *3,400—MOCA	*WAGNR, MN FIX	**5,000
WAGNR, MN FIX *3,400—MOCA	CINCI, MN FIX	*5,500
§ 95.6016 VOR Federal Airway 16 Is Amended to Read in Part		
SPEEL, VA FIX	MAXME, VA FIX	7700
§ 95.6020 VOR Federal Airway 20 Is Amended to Read in Part		
CORPUS CHRISTI, TX VORTAC *2,400—MRA	*COPAN, TX FIX	1,600
§ 95.6070 VOR Federal Airway 70 Is Amended to Read in Part		
CORPUS CHRISTI, TX VORTAC *2,400—MRA	COPAN, TX FIX	1,600
§ 95.6115 VOR Federal Airway 115 Is Amended to Read in Part		
MALIN, TN FIX	ROSAR, KY FIX	5000
§ 95.6133 VOR Federal Airway 133 Is Amended to Read in Part		
ESCANABA, MI VORTAC	SAWYER, MI VOR/DME	2800
SAWYER, MI VOR/DME *3400—MOCA	HOUGHTON, MI VOR/DME	*4500
§ 95.6136 VOR Federal Airway 136 Is Amended to Read in Part		
SPEEL, VA FIX	MAXME, VA FIX	7700
§ 95.6138 VOR Federal Airway 138 Is Amended to Read in Part		
LINCOLN, NE VORTAC	OMAHA, NE VORTAC	4,000
§ 95.6224 VOR Federal Airway 224 Is Amended to Read in Part		
SAWYER MI VOR/DME *2600—MOCA	SCHOOLCRAFT COUNTY, MI VOR/DME	*3,500
§ 95.6316 VOR Federal Airway 316 Is Amended to Read in Part		
IRONWOOD, MI VORTAC *3100—MOCA	SAWYER, MI VOR/DME	*6000
SAWYER, MI VOR/DME	UZMEF, MI FIX	*3500

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS—Continued

[Amendment 423, Effective Date: August 10, 2000. Final]

From	To	MEA
*2600—MOCA		
UZMEF, MI FIX	NEWBERRY, MI VOR/DME	*6000
*2500—MOCA		
NEWBERRY, MI VOR/DME	SAULT STE MARIE, MI VORTAC	*3000
*2300—MOCA		
§ 95.6333 VOR Federal Airway 333 Is Amended to Read in Part		
JELLO, TN FIX	DOLLY, KY FIX	4000
DOLLY, KY FIX	LEXINGTON, KY VORTAC	3800
§ 95.6341 VOR Federal Airway 341 Is Amended to Read in Part		
IRON MOUNTAIN, MI VORTAC	SAWYER, MI VOR/DME	3100
SAWYER, MI VOR/DME	HOUGHTON, MI VOR/DME	*4500
*3400—MOCA		
§ 95.6347 VOR Federal Airway 347 Is Amended to Read in Part		
HINCH MOUNTAIN, TN VORTAC	LONDON, KY VORTAC	4700
§ 95.6375 VOR Federal Airway 375 Is Amended to Read in Part		
PROSE, VA FIX	ROMAN, VA FIX	6000
ROMAN, VA FIX	GORDONSVILLE, VA VORTAC	*5000
*3900—MOCA		
§ 95.6384 VOR Federal Airway 384 Is Added to Read		
LIVINGSTON, TN VORTAC	VOLUNTEER, TN VORTAC	5500
§ 95.6407 VOR Federal Airway 407 Is Amended to Read in Part		
WORRY, TX FIX	*AUSTS, TX FIX	1,700
*2300—MRA		
§ 95.6512 VOR Federal Airway 512 Is Amended to Read in Part		
LOUISVILLE, KY VORTAC	CLEGG, KY FIX	*10000
*2700—MOCA		
§ 95.6517 VOR Federal Airway 517 Is Amended to Read in Part		
SNOWBIRD, TN VORTAC	MIAMI, TN FIX	6900
MIAMI, TN FIX	LONDON, KY VORTAC	*5500

From	To	Distance	From
VOR Changeover Points § 95.8316 VOR Federal Airway 316 Is Amended To Read			
IRONWOOD, MI, VORTAC	SAWYER, MI, VOR/DME	64	IRONWOOD.
SAWYER, MI, VOR/DME	NEWBERRY, MI VOR/DME	50	SAWYER.
§ 95.8133 VOR Federal Airway 133 Is Amended To Delete			
MARQUETTE, MI, VOR/DME	ESCANABW, MI, VORTAC	33	MARQUETTE.

[FR Doc. 00–16450 Filed 7–5–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM98–10–000]

Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services

June 29, 2000.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule, Notice of Availability of Instruction Manual for Electronic Filing of the Index of Customers.

SUMMARY: On February 9, 2000, the Federal Energy Regulatory Commission issued a final rule in this proceeding adding new information requirements to the Index of Customers to be filed by natural gas companies with the Commission, and posted on the companies' Internet web sites on the first business day of each calendar quarter. This notice announces the availability of the revised Instruction Manual for Electronic Filing of the Index of Customers in the Commission's Public Reference Room and electronically on the Commission's Internet web page.

DATES: Natural gas companies must implement the new reporting requirements by September 1, 2000.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–2294.

Craig Hill, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–0621.

SUPPLEMENTARY INFORMATION: On February 9, 2000, the Federal Energy Regulatory Commission (Commission) issued Order No. 637 amending its regulations in response to the development of more competitive markets for natural gas and the transportation of natural gas.[1] These changes included expanding reporting requirements for the Index of Customers in order to provide shippers with a more useful picture of the structure of the market for decisionmaking and monitoring purposes.

The Commission added the following new reporting requirements to the Index of Customers data collection: the receipt and delivery points held under the contract and the zones or segments in which the capacity is held; the common transaction point codes; the contract number; a shipper identification number, such as DUNS; an indication whether the contract includes negotiated rates; the names of any agents or asset managers that control capacity in a pipeline rate zone; and any affiliate relationship between the pipeline and the holder of capacity.[2]

The Commission issues an Instruction Manual for Electronic Filing of the Index of Customers explaining how pipelines are to report Index of Customer data. This Manual has been revised to incorporate the new reporting requirements.

The revised Instruction Manual for Electronic Filing of the Index of Customers is attached to this notice as an Appendix.[3] The revised manual can be found at the following electronic address: *http://www.ferc.fed.us/public/elec req.htm.* The manual also is available in the Commission's Public Reference Room and on CIPS and RIMs. As indicated in Order No. 637, pipelines are required to implement these new reporting requirements by September 1, 2000.

David P. Boergers,

Secretary.

[FR Doc. 00–16997 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

[1] 65 FR 10156 (Feb. 25, 2000); III FERC Stats. & Regs. ¶ 31,091 (Feb. 9, 2000).

[2] 18 CFR 284.13(c).

[3] The Revised Instruction Manual (Appendix A) and a summary of the new reporting requirements for the Index of Customers and the revisions to the IOC electronic filing instruction manual (Appendix B) attached to this notice will not be published in the **Federal Register.**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 98C–0212]

Listing of Color Additives Exempt From Certification; Haematococcus Algae Meal

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of haematococcus algae meal as a color additive in the feed of salmonid fish to enhance the color of their flesh. This action is in response to a petition filed by Cyanotech Corp.

DATES: This rule is effective August 8, 2000; except as to any provisions that may be stayed by the filing of proper objections. Submit written objections and requests for a hearing by August 7, 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:

Aydin Orstan, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of April 16, 1998 (63 FR 18920), FDA announced that a color additive petition (CAP 8C0256) had been filed by Cyanotech Corp., <73–4460 Queen Kaahumanu Hwy., #102, Kailua-Kona, HI 96740. The petition proposed to amend the color additive regulations to provide for the safe use of haematococcus algae meal as a color additive in salmonid fish feeds.

II. Identity, Technical Effect, and Specifications

Haematococcus algae meal consists of the comminuted and dried cells of the alga *Haematococcus pluvialis* (also known as *H. lacustris*). The major components of haematococcus algae meal are proteins, carbohydrates, and lipids produced by the alga cells. The primary coloring substance in haematococcus algae meal is astaxanthin (3,3′-dihydroxy-β,β-carotene-4,4′-dione), which exists

primarily in esterified forms (Ref. 1). One published (Ref. 2) and several unpublished studies included in the petition showed that haematococcus algae meal satisfactorily pigmented the flesh of the fish when it was fed to salmonid fish.

In the **Federal Register** of April 13, 1995 (60 FR 18736), the agency published a final rule that listed astaxanthin in § 73.35 (21 CFR 73.35) for use in the feed of salmonid fish (hereinafter referred to as the April 1995 final rule). In the preamble to that rule, the agency stated that the new regulation for astaxanthin did not specify the source of astaxanthin or the manufacturing process, because the agency had made its safety determination based on the chemical similarity of synthetic astaxanthin to astaxanthin from natural sources. The agency concluded that any source could be used to produce the color additive as long as the astaxanthin meets the identity, specifications, and stability requirements defined in § 73.35, and it is manufactured in accordance with good manufacturing practice. Furthermore, the agency stated in the astaxanthin rule that the specifications were listed to convey the fact that FDA had evaluated only a particular form of the color additive. The agency also stated that it was concerned that deleterious materials not found in the habitat of salmonids may be included in fish feed from biomass products that contain only a small amount of astaxanthin with the rest of the material being residues from the producing organisms. Thus, the agency said that interested parties should submit information in the form of a new color additive petition if they wish to market a biomass product containing astaxanthin.

Haematococcus algae meal is a biomass product that contains a relatively small amount of astaxanthin with the rest of the material being proteins, carbohydrates, and lipids. In addition, the agency determined that haematococcus algae meal would not meet the specifications in § 73.35(b) for solubility in chloroform, absorption maximum wavelength, and residue on ignition, because some of the algal components in haematococcus algae meal would interfere with the test methods. Furthermore, the petitioner specified the astaxanthin content of haematococcus algae meal to be not less than 1.5 percent, whereas the corresponding specification for astaxanthin in § 73.35(b) is not less than 96 percent. Therefore, the agency concludes that a new regulation is necessary to list haematococcus algae meal.

In the April 1995 final rule, the agency concluded that 80 milligrams per kilogram (mg/kg) of astaxanthin in fish feed would result in adequate pigmentation of the flesh of salmonids. Therefore, in § 73.35(c)(2) the agency limited the astaxanthin content of finished feed to not more than 80 mg/kg. However, the agency now notes that astaxanthin in the feed of farm-raised salmonid fish may come not only from the color additive astaxanthin meeting the specifications of § 73.35, but also from the color additive haematococcus algae meal and other color additives that are sources of astaxanthin the agency may list in the future. Therefore, new § 73.185(c)(2) requires that the quantity of astaxanthin in finished feed, from haematococcus algae meal when used alone or in combination with other astaxanthin color additive sources listed in part 73 (21 CFR part 73), shall not exceed 80 mg/kg (72 grams per ton) of finished feed.

III. Safety Evaluation

In evaluating the safety of the use of haematococcus algae meal in fish feed, the agency considered: (1) The safety of astaxanthin in haematococcus algae meal to humans and fish; and (2) the safety of the other components in haematococcus algae meal to humans and fish.

A. Safety of Astaxanthin

Astaxanthin is the principal pigment that imparts the pink or red coloring characteristic of the flesh of wild salmonids. These fish obtain astaxanthin from the crustaceans that constitute a significant portion of their diet (Ref. 3). A similar flesh color may be obtained in aquacultured salmonids by feeding them a diet supplemented with astaxanthin. In the April 1995 final rule, the agency concluded that astaxanthin was safe for use in the feed of salmonid fish. This conclusion was based on the following facts: (1) The petitioned use of astaxanthin would result in deposition of a very small amount of astaxanthin in salmonid flesh; (2) astaxanthin that was the subject of the April 1995 final rule, differed from astaxanthin present in the flesh of wild salmon only in its optical isomeric distribution; (3) human exposure to astaxanthin from consumption of aquacultured salmon fed synthetic astaxanthin is comparable to the exposure to astaxanthin from wild salmon. In addition, the results of the toxicity studies submitted by the petitioner supported the conclusion that there was reasonable certainty of no harm from the petitioned use of astaxanthin.

The facts upon which the agency concluded, in the April 1995 final rule, that astaxanthin was safe for use in the feed of salmonid fish, are similar to the facts upon which the agency is basing its conclusion that astaxanthin from the petitioned use of haematococcus algae meal is safe for use in the feed of salmonid fish. During the review of the present petition, the agency determined that in both crustaceans and *H. pluvialis*, astaxanthin is mainly in esterified forms that are converted to free astaxanthin during digestion and deposited as such in fish flesh (Ref. 4). The agency also determined that free astaxanthin from *H. pluvialis* differed from astaxanthin present in the flesh of wild salmon only in its optical isomeric distribution and that the petitioned use of astaxanthin would result in deposition of a very small amount of astaxanthin in salmonid flesh. Furthermore, the agency determined that the astaxanthin from haematococcus algae meal will substitute for the fish feed uses of astaxanthin listed in § 73.35, and that the petitioned use of haematococcus algae meal will not increase the estimated daily intake of astaxanthin in humans, which is comparable to the exposure to astaxanthin from wild salmon. Therefore, the agency concludes that astaxanthin from the petitioned use of haematococcus algae meal is safe for use in the feed of salmonid fish.

B. Safety of the Producing Organism

Based on the data in the petition and other relevant material, the agency determined that: (1) Consumers will not be directly exposed to haematococcus algae meal, but to astaxanthin remaining in fish that have consumed the yeast in their diet; (2) there is no evidence that any constituents other than astaxanthin will accumulate in fish maintained on diets supplemented with haematococcus algae meal; (3) the results of studies during which rats and salmon were fed haematococcus algae meal and bacterial mutagenicity tests did not reveal any adverse effects, indicating the absence of toxic impurities in the algae; (4) a literature search uncovered no reports of pathogenicity or toxicogenicity of *H. pluvialis*; and (5) algae are commonly used as feed components in fish aquaculture with no deleterious effects on fish health. Based on this information, FDA concludes that the petitioned use of haematococcus algae meal is safe (Ref. 5).

IV. Stability of Astaxanthin in Haematococcus Algae Meal

Based on the results of stability studies of haematococcus algae meal submitted by the petitioner, FDA concludes that to minimize chemical changes that would result in loss of color of astaxanthin, haematococcus algae meal must be added to fish feed only in the form of a stabilized color additive mixture. Therefore, new § 73.185(a)(2) requires that haematococcus algae meal be added to fish feed only as a component of a stabilized color additive mixture.

V. Labeling Requirements

All color additives, in accordance with § 70.25 (21 CFR 70.25), require sufficient information to assure their safe use and to allow a determination of compliance with any limitations imposed by the agency in other applicable regulations. Therefore, the labeling of the color additive, haematococcus algae meal, and any mixture prepared therefrom, is subject to the requirements of § 70.25.

According to § 70.25(a)(4), an expiration date for a color additive must be stated on its label if stability data require it. FDA finds that because of the instability of astaxanthin in haematococcus algae meal, an expiration date must be stated on the label of sealed and open containers, in accordance with § 70.25(a)(4). FDA also finds that declaration of the expiration date constitutes a material fact that must be disclosed on the label of the color additive mixture under sections 201(n) and 403(a)(1) of the act (21 U.S.C. 321(n) and 343(a)(1)) because failure to do so would constitute a failure to reveal facts material in light of the representations made on the label and material with respect to consequences that may result from the use of the color additive. The use of haematococcus algae meal requires the declaration of expiration dates because astaxanthin in haematococcus algae meal can decompose to products that would not be coloring agents and thus would not affect the color of salmonid flesh.

In addition to the requirements for labeling the color additive or color additive mixture, the ingredient list on fish feed, to which haematococcus algae meal is added, must identify the presence of the color additive under § 501.4 (21 CFR 501.4). New § 73.185(d)(2) references § 501.4 to ensure that the presence of haematococcus algae meal as a color additive in the fish feed will be declared on the ingredient label.

Finally, the presence of the color additive must be declared on the label of any food, including salmonid fish, containing added haematococcus algae meal and food containing such salmonid fish as an ingredient. Section 101.22(b) (21 CFR 101.22(b)) requires a food that bears or contains artificial coloring, such as salmon artificially colored with haematococcus algae meal, to bear labeling even though such food is not in package form. Section 101.22(c) requires that label statements of artificial coloring be ''likely to be read by the ordinary person under customary conditions of purchase and use of such food.''

Furthermore, § 101.22(k)(2) requires, in the statement of ingredients for a food to which any coloring has been added, and for which the coloring is not subject to certification, a declaration that makes it clear that a color additive has been used in the food. In addition, the presence of a color additive must be declared on any bulk container of food containing a color additive that is held at a retail establishment under the provisions in § 101.100(a)(2) (21 CFR 101.100(a)(2)). The ingredient label would prevent economic fraud in salmonid fish containing added haematococcus algae meal because the ingredient label would notify the consumer that the fish is artificially colored. Without such ingredient labeling, food comprising salmonid fish with added haematococcus algae meal would be deemed to be misbranded under section 403(k) of the act, which states that: ''A food shall be deemed to be misbranded * * * If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact * * *.''

Therefore, in accordance with §§ 101.22(b), (c), and (k)(2), and 101.100(a)(2), labeling on any salmonid fish containing haematococcus algae meal is required to declare the presence of the color additive or color additive mixture. New § 73.185(d)(3) references §§ 101.22(b), (c), and (k)(2), and 101.100(a)(2) to ensure that, at the retail level, the presence of haematococcus algae meal as a color additive in the fish will be declared, and that the labeling of the bulk fish container, including a list of ingredients, will be displayed on the container or on a counter card with similar information.

In the future, the agency also intends to propose to amend § 73.35(d)(3) to include references to § 101.22(b) and (c).

VI. Conclusion

Based on the data in the petition and other relevant material, FDA concludes that the petitioned use of haematococcus algae meal as a color additive in fish feed to color the flesh of salmonid fish is safe, the additive will achieve its intended technical effect, and therefore, part 73 should be amended as set forth below. In addition, based upon the factors listed in 21 CFR 71.20(b), the agency concludes that certification of haematococcus algae meal is not necessary for the protection of the public health.

VII. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), 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 § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VIII. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for CAP 8C0256. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

IX. Paperwork Reduction Act of 1995

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.

X. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by August 7, 2000. 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 are to be submitted and are to 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.

XI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Renstrom, B., G. Borch, O. M. Skulberg, and S. Liaaen-Jensen, ''Optical Purity of (3S,3′S)-Astaxanthin from *Haematococcus pluvialis*,'' *Phytochemistry*, 20:2561–2564, 1981.

2. Sommer, T. R., W. T. Potts, and N. M. Morrissy, ''Utilization of Microalgal Astaxanthin by Rainbow Trout (*Oncorhynchus mykiss*),'' *Aquaculture*, 94:79–88, 1991.

3. Kitahara, T., ''Carotenoids in the Pacific Salmon During the Marine Period,'' *Comprehensive Biochemistry and Physiology*, 78B:859–862, 1984.

4. Mori, T., K. Makabe, K. Yamaguchi, S. Konosu, and S. Arai, ''Comparison Between Krill Astaxanthin Diester and Synthesized Free Astaxanthin Supplemented to Diets in Their Absorption and Deposition by Juvenile Coho Salmon (*Oncorhynchus kisutch*),'' *Comprehensive Biochemistry and Physiology*, 93B:255–258, 1989.

5. Johnson, C. B., Memorandum entitled ''*Haematococcus pluvialis* Algae Meal for Use in Feed for Salmonids: Final Toxicology Review'' from the Division of Health Effects Evaluation (HFS–225) to the Division of Petition Control (HFS–215), Center for Food Safety and Applied Nutrition, FDA, August 12, 1999.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. Section 73.185 is added to subpart A to read as follows:

§ 73.185 Haematococcus algae meal.

(a) *Identity*. (1) The color additive haematococcus algae meal consists of the comminuted and dried cells of the alga *Haematococcus pluvialis*.

(2) Haematococcus algae meal may be added to the fish feed only as a component of a stabilized color additive mixture. Color additive mixtures for fish feed use made with haematococcus algae meal may contain only those diluents that are suitable and are listed in this subpart as safe for use in color additive mixtures for coloring foods.

(b) *Specifications*. Haematococcus algae meal shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Physical state, solid.

Lead, not more than 5 parts per million.

Arsenic, not more than 2 parts per million.

Mercury, not more than 1 part per million.

Heavy metals (as Pb), not more than 10 parts per million.

Astaxanthin, not less than 1.5 percent.

(c) *Uses and restrictions*. Haematococcus algae meal may be safely used in the feed of salmonid fish in accordance with the following prescribed conditions:

(1) The color additive is used to enhance the pink to orange-red color of the flesh of salmonid fish.

(2) The quantity of astaxanthin in finished feed, from haematococcus algae meal when used alone or in combination with other astaxanthin color additive sources listed in this part 73, shall not exceed 80 milligrams per kilogram (72 grams per ton) of finished feed.

(d) *Labeling requirements*. (1) The labeling of the color additive and any premixes prepared therefrom shall bear expiration dates for the sealed and open container (established through generally accepted stability testing methods), other information required by § 70.25 of this chapter, and adequate directions to prepare a final product complying with the limitations prescribed in paragraph (c) of this section.

(2) The presence of the color additive in finished fish feed prepared according to paragraph (c) of this section shall be declared in accordance with § 501.4 of this chapter.

(3) The presence of the color additive in salmonid fish that have been fed feeds containing haematococcus algae meal shall be declared in accordance with §§ 101.22(b), (c), and (k)(2), and 101.100(a)(2) of this chapter.

(e) *Exemption from certification*. Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the act.

Dated: June 27, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–17018 Filed 7–5–00; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 97C–0466]

Listing of Color Additives Exempt From Certification; Phaffia Yeast

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the color additive regulations to provide for the safe use of phaffia yeast as a color additive in the feed of salmonid fish to enhance the color of their flesh. This action is in response to a petition filed by Archer Daniels Midland Co.

DATES: This rule is effective August 8, 2000; except as to any provisions that may be stayed by the filing of proper objections. Submit written objections and requests for a hearing by August 7, 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: Aydin Orstan, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3076.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** of November 19, 1997 (62 FR 61823), FDA announced that a color additive petition (CAP 8C0252) had been filed by Archer Daniels Midland Co., P.O. Box 1470, Decatur, IL 62525. The petition proposed to amend the color additive regulations to provide for the safe use of astaxanthin from *Phaffia*

rhodozyma as a color additive in salmonid fish feeds. During its review of the petition, the agency determined that the subject color additive is more accurately described as a dried preparation of the yeast *P. rhodozyma* that contains astaxanthin. Therefore, the agency is establishing phaffia yeast as the common or usual name of the color additive.

II. Identity, Technical Effect, and Specifications

Phaffia yeast consists of the cells of the yeast *P. rhodozyma* that are produced by pure culture fermentation and subsequently killed by heat and dried. *P. rhodozyma* is the asexual form of the yeast species *Xanthophyllomyces dendrorhous* (Ref. 1). The major components of phaffia yeast are proteins, carbohydrates, and lipids produced by the yeast cells. The primary coloring substance in phaffia yeast is astaxanthin (3,3′-dihydroxy-β,β-carotene-4,4′-dione) (Ref. 2). One published (Ref. 3) and several unpublished studies included in the petition showed that phaffia yeast satisfactorily pigmented the flesh of the fish when it was fed to salmonid fish.

In a final rule published in the **Federal Register** of April 13, 1995 (60 FR 18736), the agency listed astaxanthin in § 73.35 (21 CFR 73.35) for use in the feed of salmonid fish. In the preamble to that rule, the agency stated that the new regulation for astaxanthin did not specify the source of astaxanthin or the manufacturing process, because the agency had made its safety determination for astaxanthin based on the chemical similarity of synthetic astaxanthin to astaxanthin from natural sources. The agency concluded that any source could be used to produce the color additive as long as the astaxanthin meets the identity, specifications, and stability requirements defined in § 73.35, and it is manufactured in accordance with good manufacturing practice. Furthermore, the agency stated in the astaxanthin rule that the specifications were listed to convey the fact that FDA had evaluated only a particular form of the color additive. The agency also stated that it was concerned that deleterious materials not found in the habitat of salmonids may be included in fish feed from biomass products that contain only a small amount of astaxanthin with the rest of the material being residues from the producing organisms. Thus, the agency said that interested parties should submit information in the form of a new color additive petition if they wish to market a biomass product containing astaxanthin.

Phaffia yeast is a biomass product that contains a relatively small amount of astaxanthin with the rest of the material being proteins, carbohydrates, and lipids. In addition, the petitioner indicated that phaffia yeast would not meet the specifications in § 73.35(b) for solubility in chloroform, absorption maximum wavelength, and residue on ignition, because some of the yeast components in phaffia yeast would interfere with the test methods. Furthermore, the petitioner specified the astaxanthin content of phaffia yeast to be not less than 0.4 percent, whereas the corresponding specification for astaxanthin in § 73.35(b) is not less than 96 percent. Therefore, the petitioner requested that a new regulation be established for phaffia yeast as a source of astaxanthin. The agency agrees with the petitioner that a new regulation is necessary to list phaffia yeast.

During the fish feeding studies, phaffia yeast was mixed with fish feed in such quantities that the amount of astaxanthin in finished feeds did not exceed 80 milligrams per kilogram. The agency based its safety determination on this amount of astaxanthin and the petitioner requested that this level be specified in the listing regulation. However, the agency notes that astaxanthin in the feed of farm-raised salmonid fish may come not only from phaffia yeast, but also from the use of the color additive astaxanthin meeting the specifications of § 73.35 and other color additives that are sources of astaxanthin the agency may list in the future. Therefore, newly added § 73.355(c)(2) (21 CFR 73.355(c)(2)) requires that the quantity of astaxanthin in finished feed, from phaffia yeast when used alone or in combination with other astaxanthin color additive sources listed in part 73 (21 CFR part 73), shall not exceed 80 milligrams per kilogram (72 grams per ton) of finished feed.

III. Safety Evaluation

In evaluating the safety of the use of phaffia yeast in fish feed, the agency considered: (1) The safety of astaxanthin in phaffia yeast to humans and fish, and (2) the safety of the other components in phaffia yeast to humans and fish.

A. Safety of Astaxanthin

Astaxanthin is the principal pigment that imparts the pink or red coloring characteristic of the flesh of wild salmonids (Ref. 3). These fish obtain astaxanthin from the crustaceans that constitute a significant portion of their diet. A similar flesh color may be obtained in aquacultured salmonids by feeding them a diet supplemented with astaxanthin. In the final rule of April 13, 1995, the agency concluded that astaxanthin was safe for use in the feed of salmonid fish. This conclusion was based on the following facts: (1) The petitioned use of astaxanthin would result in deposition of a very small amount of astaxanthin in salmonid flesh; (2) astaxanthin that was the subject of the final rule of April 13, 1995, differed from astaxanthin present in the flesh of wild salmon only in its optical isomeric distribution; (3) human exposure to astaxanthin from consumption of aquacultured salmon fed synthetic astaxanthin is comparable to the exposure to astaxanthin from wild salmon. In addition, the results of the toxicity studies submitted by the petitioner supported the conclusion that there was reasonable certainty of no harm from the petitioned use of astaxanthin.

In the final rule of April 13, 1995, the facts upon which the agency concluded that astaxanthin was safe for use in the feed of salmonid fish are similar to the facts upon which the agency is basing its conclusion that astaxanthin from the petitioned use of phaffia yeast is safe for use in the feed of salmonid fish. During the review of the present petition, the agency determined that astaxanthin from phaffia yeast differed from astaxanthin present in the flesh of wild salmon only in its optical isomeric distribution and that the petitioned use of astaxanthin would result in deposition of a very small amount of astaxanthin in salmonid flesh. Furthermore, the agency determined that the astaxanthin from phaffia yeast will substitute for the fish feed uses of astaxanthin listed in § 73.35, and that the petitioned use of phaffia yeast will not increase the estimated daily intake of astaxanthin in humans, which is comparable to the exposure to astaxanthin from wild salmon. Therefore, the agency concludes that astaxanthin from the petitioned use of phaffia yeast is safe for use in the feed of salmonid fish.

B. Safety of the Producing Organism

The yeast *P. rhodozyma* naturally produces astaxanthin (Refs. 2 and 3). The parent strain of *P. rhodozyma* used by the petitioner was originally obtained from a natural source. From this parent strain a new strain that produces more astaxanthin was derived using classical mutagenesis (nonrecombinant deoxyribonucleic acid (DNA)) techniques.

Based on the data in the petition and other relevant material, the agency determined that: (1) consumers will not be directly exposed to phaffia yeast, but to astaxanthin remaining in fish that

have consumed the yeast in their diet; (2) there is no evidence that any constituents other than astaxanthin will accumulate in fish maintained on diets supplemented with phaffia yeast; (3) the results of studies during which rats and fish were fed phaffia yeast and bacterial mutagenicity tests did not reveal any adverse effects on these organisms, indicating the absence of toxic impurities in the yeast; (4) a literature search uncovered no reports of pathogenicity or toxicogenicity of *P. rhodozyma*; and (5) various yeasts are commonly used as feed in fish aquaculture with no deleterious effects on fish health. Based on this information, FDA concludes that the petitioned use of *P. rhodozyma* is safe (Ref. 4).

IV. Stability of Astaxanthin in Phaffia Yeast

Based on the results of stability studies of phaffia yeast submitted by the petitioner, FDA concludes that to minimize chemical changes that would result in loss of color of astaxanthin, phaffia yeast must be added to fish feed only in the form of a stabilized color additive mixture. Therefore, newly added § 73.355(a)(2) requires that phaffia yeast be added to fish feed only as a component of a stabilized color additive mixture.

V. Labeling Requirements

All color additives, in accordance with § 70.25 (21 CFR 70.25), require sufficient information to assure their safe use and to allow a determination of compliance with any limitations imposed by the agency in other applicable regulations. Therefore, the labeling of the color additive, phaffia yeast, and any mixture prepared therefrom, is subject to the requirements of § 70.25.

According to § 70.25(a)(4), an expiration date for a color additive must be stated on its label if stability data require it. FDA finds that because of the instability of astaxanthin in phaffia yeast, an expiration date must be stated on the label of sealed and open containers, in accordance with § 70.25(a)(4). FDA also finds that declaration of the expiration date constitutes a material fact that must be disclosed on the label of the color additive mixture under sections 201(n) and 403(a)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(n) and 343(a)(1)) because failure to do so would constitute a failure to reveal facts material in light of the representations made on the label and material with respect to consequences which may result from the use of the color additive. The use of phaffia yeast requires the declaration of expiration dates because astaxanthin in phaffia yeast can decompose to products that would not be coloring agents and thus would not affect the color of salmonid flesh.

In addition to the requirements for labeling the color additive or color additive mixture, the ingredient list on fish feed, to which phaffia yeast is added, must identify the presence of the color additive under 21 CFR 501.4. New § 73.355(d)(2) references § 501.4 to ensure that the presence of phaffia yeast as a color additive in the fish feed will be declared on the ingredient label.

Finally, the presence of the color additive must be declared on the label of any food, including salmonid fish, containing added phaffia yeast and food containing such salmonid fish as an ingredient. Section 101.22(b) (21 CFR 101.22(b)) requires a food that bears or contains artificial coloring, such as salmon artificially colored with phaffia yeast, to bear labeling even though such food is not in package form. Section 101.22 requires that label statements of artificial coloring be ''likely to be read by the ordinary person under customary conditions of purchase and use of such food.''

Furthermore, § 101.22(k)(2) requires, in the statement of ingredients for a food to which any coloring has been added, and for which the coloring is not subject to certification, a declaration that makes it clear that a color additive has been used in the food. In addition, the presence of a color additive must be declared on any bulk container of food containing a color additive that is held at a retail establishment under the provisions in § 101.100(a)(2) (21 CFR 101.100(a)(2)). The ingredient label would prevent economic fraud in salmonid fish containing added phaffia yeast because the ingredient label would notify the consumer that the fish is artificially colored. Without such ingredient labeling, food comprising salmonid fish with added phaffia yeast would be deemed to be misbranded under section 403(k) of the act, which states that: A food shall be deemed to be misbranded ''If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact * * *.''

Therefore, in accordance with §§ 101.22(b), (c), and (k)(2), and 101.100(a)(2), labeling on any salmonid fish containing phaffia yeast is required to declare the presence of the color additive or color additive mixture. New § 73.355(d)(3) references §§ 101.22(b), (c), and (k)(2), and 101.100(a)(2) to ensure that, at the retail level, the presence of phaffia yeast as a color additive in the fish will be declared, and that the labeling of the bulk fish container, including a list of ingredients, will be displayed on the container or on a counter card with similar information. In the future, the agency also intends to propose to amend § 73.35(d)(3) to include references to § 101.22(b) and (c).

VI. Conclusion

Based on the data in the petition and other relevant material, FDA concludes that the petitioned use of phaffia yeast as a color additive in fish feed to color the flesh of salmonid fish is safe, the additive will achieve its intended technical effect, and therefore, part 73 should be amended as set forth below. In addition, based upon the factors listed in 21 CFR 71.20(b), the agency concludes that certification of phaffia yeast is not necessary for the protection of the public health.

VII. Inspection of Documents

In accordance with § 71.15 (21 CFR 71.15), 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 § 71.15, the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

VIII. Environmental Impact

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for CAP 8C0252 (November 19, 1997, 62 FR 61823). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

IX. Paperwork Reduction Act of 1995

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.

X. Objections

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by August 7, 2000. 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 are to be submitted and are to 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. FDA will publish notice of the objections that the agency has received or lack thereof in the **Federal Register**.

XI. References

1. Golubev, W. I., ''Perfect State of *Rhodomyces dendrorhous (Phaffia rhodozyma)*,'' *Yeast*, 11:101–110, 1995.

2. Andrewes, A. G., H. J. Phaff, and M. P. Starr, ''Carotenoids of *Phaffia rhodozyma*, a Red-Pigmented Fermenting Yeast,'' *Phytochemistry*, 15:1003–1007, 1976.

3. Johnson, E. A., D. E. Conklin, and M. J. Lewis, ''The Yeast *Phaffia rhodozyma* as a Dietary Pigment Source for Salmonids and Crustaceans,'' *Journal of the Fishers Research Board of Canada*, 34:2417–2421, 1977.

4. Johnson, C. B., memorandum entitled ''Astaxanthin from *Phaffia rhodozyma:* Final Toxicology Review'' from the Division of Health Effects Evaluation (HFS–225) to the Division of Petition Control (HFS–215), Center for Food Safety and Applied Nutrition, FDA, August 12, 1999.

List of Subjects in 21 CFR Part 73

Color additives, Cosmetics, Drugs, Foods, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 73 is amended as follows:

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

1. The authority citation for 21 CFR part 73 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 379e.

2. New § 73.355 is added to subpart A to read as follows:

§ 73.355 Phaffia yeast.

(a) *Identity*. (1) The color additive phaffia yeast consists of the killed, dried cells of a nonpathogenic and nontoxicogenic strain of the yeast *Phaffia rhodozyma*.

(2) Phaffia yeast may be added to the fish feed only as a component of a stabilized color additive mixture. Color additive mixtures for fish feed use made with phaffia yeast may contain only those diluents that are suitable and are listed in this subpart as safe for use in color additive mixtures for coloring foods.

(b) *Specifications*. Phaffia yeast shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Physical state, solid.

Lead, not more than 5 parts per million.

Arsenic, not more than 2 parts per million.

Mercury, not more than 1 part per million.

Heavy metals (as Pb), not more than 10 parts per million.

Astaxanthin, not less than 0.4 percent.

(c) *Uses and restrictions*. Phaffia yeast may be safely used in the feed of salmonid fish in accordance with the following prescribed conditions:

(1) The color additive is used to enhance the pink to orange-red color of the flesh of salmonid fish.

(2) The quantity of astaxanthin in finished feed, from phaffia yeast when used alone or in combination with other astaxanthin color additive sources listed in this part 73, shall not exceed 80 milligrams per kilogram (72 grams per ton) of finished feed.

(d) *Labeling requirements*. (1) The labeling of the color additive and any premixes prepared therefrom shall bear expiration dates for the sealed and open container (established through generally accepted stability testing methods), other information required by § 70.25 of this chapter, and adequate directions to prepare a final product complying with the limitations prescribed in paragraph (c) of this section.

(2) The presence of the color additive in finished fish feed prepared according to paragraph (c) of this section shall be declared in accordance with § 501.4 of this chapter.

(3) The presence of the color additive in salmonid fish that have been fed feeds containing phaffia yeast shall be declared in accordance with §§ 101.22(b), (c), and (k)(2) and 101.100(a)(2) of this chapter.

(e) *Exemption from certification*. Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from the certification requirements of section 721(c) of the act.

Dated: June 27, 2000.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 00–17019 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Furazolidone Aerosol Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Fort Dodge Animal Health, a Division of American Cyanamid Co. The supplemental NADA provides for removal of that portion of the approval reflecting topical cattle use of furazolidone aerosol powder.

DATES: This regulation is effective July 6, 2000.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6642.

SUPPLEMENTARY INFORMATION: Fort Dodge Animal Health, a 1Division of American Cyanamid Co., P.O. Box 1339, Fort Dodge, IA 50501, is the sponsor of NADA 32–319 for Furox (furazolidone) aerosol powder for use in dogs, horses, ponies, and cattle. The sponsor filed a supplemental NADA requesting removal of topical ocular use of the product in cattle. The supplemental NADA is approved as of November 29, 1999, and the regulations are amended in 21 CFR

524.1005(b)(1), (c)(2)(iii), and (c)(3) to reflect the approval.

The regulations in § 524.1005(b)(1) (21 CFR 524.1005(b)(1)) indicate that Pfizer, Inc., is sponsor of NADA 32–319 for use of a 10 percent furazolidone aerosol powder in dogs, horses, and cattle. The NADA had been acquired by Fort Dodge Animal Health, a Division of American Cyanamid Co. At this time, the regulation is amended in § 524.1005(b) to reflect the sponsor change.

Approval of this supplemental NADA provides for removal of a cattle use. It does not affect the safety or effectiveness data in the application. Therefore, a freedom of information summary is not required.

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 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 524 continues to read as follows:

Authority: 21 U.S.C. 360b.

2. Section 524.1005 is amended by revising paragraphs (b)(1) and (c)(3) and by removing and reserving paragraph (c)(2)(iii) to read as follows:

§ 524.1005 Furazolidone aerosol powder.

* * * * *

(b) * * *

(1) See No. 053501 in § 510.600(c) of this chapter for use as in paragraphs (c)(1), (c)(2)(i), (c)(2)(ii), and (c)(3) of this section.

* * * * *

(c) * * *

(2) * * *

(iii) [Reserved]

(3) *Limitations.* For topical application in horses, ponies, and dogs: Clean affected area thoroughly, apply drug once or twice daily, and repeat treatment as required. Use only as recommended by a veterinarian in treatment of puncture wounds, wounds requiring surgical debridement or suturing, those of a chronic nature involving proud flesh, generalized and chronic infections of the skin, and those skin conditions associated with intense itching. If redness, irritation, or swelling persists or increases, discontinue use and consult a veterinarian. Not for use in horses intended for food.

Dated: June 15, 2000.

Andrew J. Beaulieu,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 00–16977 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 556

Tolerances for Residues of New Animal Drugs in Food; Fenbendazole

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoechst Roussel Vet. The supplemental NADA provides for establishing tolerances for residues of fenbendazole in edible tissues of cattle. Also, a tolerance for parent fenbendazole in goat muscle is established.

DATES: This rule is effective July 6, 2000.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578.

SUPPLEMENTARY INFORMATION: Hoechst Roussel Vet, Perryville Corporate Park III, P.O. Box 4010, Clinton, NJ 08809–4010, filed a supplement to NADA 128–620 that provides for use of Safe-Guard® (fenbendazole) 10% Suspension for Cattle and Panacur® (fenbendazole) 10% Suspension for Cattle. The supplement provides for establishing a tolerance for parent fenbendazole in cattle muscle. The supplement is approved as of May 9, 2000, and the regulations in § 556.275 (21 CFR 556.275) are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In addition, FDA is reviewing information in the application and it is establishing a tolerance for parent fenbendazole in goat muscle. The regulations are further amended in § 556.275 to reflect this action.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) 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.

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 the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 556

Animal drugs, Foods.

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 556 is amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

2. Section 556.275 is amended by adding paragraphs (b)(1)(ii) and (b)(3)(ii) to read as follows:

§ 556.275 Fenbendazole.

* * * * *

(b) * * *

(1) * * *

(ii) *Muscle.* The tolerance for parent fenbendazole (the marker residue) is 0.4 ppm.

* * * * *

(3) * * *

(ii) *Muscle.* The tolerance for parent fenbendazole (the marker residue) is 0.4 ppm.

Dated: June 19, 2000.

Claire M. Lathers,

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

[FR Doc. 00–16976 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Methylene Disalicylate and Fenbendazole

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Alpharma, Inc. The NADA provides for use of approved bacitracin methylene disalicylate and fenbendazole Type A medicated articles to make combination Type B and C medicated feeds for growing and finishing swine and pregnant sows for the removal of various internal parasites, for increased rate of weight gain and improved feed efficiency, for control of swine dysentery associated with *Treponema hyodysenteriae*, and for control of clostridial enteritis in suckling pigs caused by *Clostridium perfringens*. Technical corrections are also being made.

DATES: This rule is effective July 6, 2000.

FOR FURTHER INFORMATION CONTACT: Janis R. Messenheimer, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7578.

SUPPLEMENTARY INFORMATION: Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed NADA 141–144 that provides for use of BMD® (10, 25, 30, 40, 50, 60, or 75 grams per pound (g/lb) bacitracin methylene disalicylate) and SafeGuard® (18.1, 36.2, or 90.7 g/lb fenbendazole) Type A medicated articles to make combination Type B and C medicated feeds for growing and finishing swine and pregnant sows.

For growing and finishing swine, the Type A medicated articles are used to make combination Type B medicated feeds that contain 300 to 1,780 grams per ton (g/ton) of bacitracin methylene disalicylate and 300 to 17,740 g/ton of fenbendazole and combination Type C medicated feeds that contain 10 to 30 g/ton of bacitracin methylene disalicylate and 10 to 300 g/ton of fenbendazole. The combination Type C medicated feeds are used for increased rate of weight gain and improved feed efficiency; and for the removal of adult-stage lungworms (*Metastrongylus apri* and*M. pudendotectus*); adult and larvae (L3, 4 stages—liver, lung, and intestinal forms) large roundworms (*Ascaris suum*); adult-stage nodular worms (*Oesophagostomum dentatum*, *O. quadrispinulatum*); small stomach worms (*Hyostrongylus rubidus*); adult and larvae (L2, 3, 4 stages—intestinal mucosal forms) whipworms (*Trichuris suis*); and adult and larvae kidneyworms (*Stephanurus dentatus*).

For growing and finishing swine and for pregnant sows, the Type A medicated articles are used to make Type B medicated feeds that contain 7,460 to 14,837 g/ton of bacitracin methylene disalicylate and 300 to 17,740 g/ton of fenbendazole and Type C medicated feeds that contain 250 g/ton of bacitracin methylene disalicylate and 10 to 300 g/ton of fenbendazole.

The combination Type C medicated growing and finishing swine feeds are used for the control of swine dysentery associated with *T. hyodysenteriae* in growing and finishing swine on premises with a history of swine dysentery but where signs of disease have not yet occurred, or following an approved treatment of the disease; and for the removal of adult-stage lungworms (*M. apri* and*M. pudendotectus*); adult and larvae (L3, 4 stages—liver, lung, and intestinal forms) large roundworms (*A. suum*); adult-stage nodular worms (*O. dentatum*,*O. quadrispinulatum*); small stomach worms (*H. rubidus*); adult and larvae (L2, 3, 4 stages—intestinal mucosal forms) whipworms (*T. suis*); and adult and larvae kidneyworms (*S. dentatus*).

The combination Type C medicated sow feeds are used for the control of clostridial enteritis in suckling pigs caused by *C. perfringens*; and for the removal of adult stage lungworms (*M. apri* and *M. pudendotectus*); adult and larvae (L3, 4 stages—liver, lung, and intestinal forms) large roundworms (*A. suum*); adult-stage nodular worms (*O. dentatum*, *O. quadrispinulatum*); small stomach worms (*H. rubidus*); adult and larvae (L2, 3, 4 stages—intestinal mucosal forms) whipworms (*T. suis*); and adult and larvae kidneyworms (*S. dentatus*).

The NADA is approved as of April 7, 2000, and 21 CFR 558.76 and § 558.258 (21 CFR 558.258) are amended to add new entries to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Also, § 558.258 is amended to redesignate paragraph (c) as paragraph (d) and add paragraph (c) to reflect a newer format.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) 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.

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 the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.76 is amended by adding paragraph (d)(3)(xxii) to read as follows:

§ 558.76 Bacitracin methylene disalicylate.

* * * * *

(d) * * *

(3) * * *

(xxii) Fenbendazole as in § 558.258.

3. Section 558.258 is amended by redesignating paragraph (c) as paragraph (d) and reserving paragraph (c), and by adding paragraphs (d)(1)(vi) and (d)(1)(vii) to read as follows:

§ 558.258 Fenbendazole.

* * * * *

(c) [Reserved]

(d) * * *

(1) * * *

(vi) *Amount.* Fenbendazole, 10 to 300 grams per ton (to provide 9 milligrams per kilogram body weight), and bacitracin methylene disalicylate, 10 to 30 grams per ton.

(A) *Indications for use.* As an anthelmintic (as provided in paragraph

(d)(1)(i)(A) of this section) and for increased rate of weight gain and improved feed efficiency in growing/finishing swine.

(B) *Limitations*. Feed as sole ration. Under conditions of continued exposure to parasites, retreatment may be needed after 4 to 6 weeks. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Bacitracin methylene disalicylate as provided by 046573 in § 510.600(c) of this chapter.

(vii) *Amount*. Fenbendazole, 10 to 300 grams per ton, and bacitracin methylene disalicylate, 250 grams per ton.

(A) *Indications for use*—(*1*) *Growing/finishing swine*. As an anthelmintic (as provided in paragraph (d)(1)(i)(A) of this section) and for control of swine dysentery associated with *Treponema hyodysenteriae* on premises with a history of swine dysentery, but where signs of disease have not yet occurred; or following an approved treatment of the disease condition.

(*2*) *Pregnant sows*. As an anthelmintic (as provided in paragraph (d)(1)(i)(A) of this section) and for control of clostridial enteritis in suckling pigs caused by *Clostridium perfringens*.

(B) *Limitations*—(*1*)*Growing/finishing swine*. Feed as sole ration. Not for use in growing and finishing swine that weigh more than 250 pounds. Diagnosis of swine dysentery should be confirmed by a veterinarian when results are not satisfactory. Under conditions of continued exposure to parasites, retreatment may be needed after 4 to 6 weeks. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Bacitracin methylene disalicylate as provided by 046573 in § 510.600(c) of this chapter.

(*2*) *Pregnant sows*. Feed as sole ration. Diagnosis of clostridial enteritis should be confirmed by a veterinarian when results are not satisfactory. Under conditions of continued exposure to parasites, retreatment may be needed after 4 to 6 weeks. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. Bacitracin methylene disalicylate as provided by 046573 in § 510.600(c) of this chapter.

* * * * *

Dated: June 19, 2000.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 00–17020 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–00–022]

RIN 2115–AA97

Safety Zone Regulations, Seafair Blue Angels Performance, Lake Washington, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Lake Washington, Seattle, Washington. The Coast Guard is taking this action to safeguard the participants and spectators from the safety hazards associated with Seafair Blue Angels Performance. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

DATES: This is effective from 8:30 a.m. Pacific Daylight Time on August 3 through 3 p.m. on August 6, 2000.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 7 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Paul Stocklin, c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, (206) 217–6232.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation and good cause exists for making it effective less than 30 days from date of publication in the **Federal Register**. Due to complex planning and coordination requirements, the Coast Guard was not able to obtain details of the event thirty days prior to its occurrence. Because of this, following normal rulemaking procedures would be impracticable and contrary to the public interest. Prompt regulatory action is needed in order to provide for the safety of spectators and participants during the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Discussion of Proposed Rule

The Coast Guard is adopting a temporary safety zone regulation on the waters of Lake Washington, Seattle, Washington, for the Seafair Blue Angels Performance. The Coast Guard has determined it is necessary to close the area in the vicinity of the air show in order to minimize the dangers that low-flying aircraft present to persons and vessels. These dangers include, but are not limited to excessive noise and the risk of falling objects from any accidents associated with low flying aircraft. In the event that aircraft require emergency assistance, rescuers must have immediate and unencumbered access to the craft. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area. Entry into this zone will be prohibited unless authorized by the Captain of the Port. This safety zone will be enforced by Coast Guard personnel. The Captain of the Port may be assisted by other federal, state, or local agencies.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. 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). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This expectation is based on the fact that the regulated area established by the proposed regulation would encompass an area near the middle of Lake Washington, not frequented by commercial navigation. The regulation is established for the benefit and safety of the recreational boating public, and any recreational boating impact is offset by the benefits of allowing the Blue Angels to fly. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities.

''Small entities'' include small businesses, 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. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this portion of Lake Washington from 8:30 a.m. until 3 p.m., Pacific Daylight Time, August 3rd, 4th, 5th and 6th, 2000. The zone will not have a significant economic impact due to its short duration and small area. It is believed that the only vessels likely to be impacted will be recreational boaters and small passenger vessel operators. The event is held for the benefit and entertainment of those above categories. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the (**FOR FURTHER INFORMATION CONTACT**) section.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

We have analyzed this proposed rule under E.O. 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 costs. This proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would 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 proposed 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 proposed 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 risk to safety that may disproportionately affect children.

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for temporary safety zones of less than one week in duration. This rule establishes a temporary safety zone of limited duration which will be within the one-week timeframe.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Rule

For the reasons set out in the preamble, the Coast Guard amends part 165 of Title 33, Code of Federal Regulations, as follows:

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. From 8:30 a.m. on August 3 through 3 p.m. on August 6, 2000, a temporary § 165.T13–020 is added to read as follows:

§ 165.T13–020 Safety Zone Regulations, Seafair Blue Angels Performance, Seattle, WA.

(a) *Location.* The following area is a safety zone: All waters of Lake Washington, Washington State, enclosed by the following points: All waters of Lake Washington, Washington State, enclosed by the following points: The North-West corner of Faben Point at 47°35″34.5″ N, 122°15″13″ W; thence to 47°35″48″ N, 122°15″45″ W; thence to 47°36″32″ N, 122°15″59″ W; thence to 47°36″26″ N, 122°16″ 38″ W, thence to 47° 35″42″ N, 122°16″24″ W, thence to the East side of the entrance to the West highrise of the Interstate 90 bridge, thence Easterly along the South side of the bridge to a point 1130 yards East of the Western terminus of the bridge, thence Southerly to a point in Andrews bay at 47°33″06″ N, 122°15″32″ W, thence North-East along the shoreline of Bailey Peninsula to its North-East point at 47°33″44″ N, 122°15″04″ W, thence Easterly along the East-West line drawn tangent to Bailey Peninsula, thence northerly along the shoreline of Mercer Island to the point of origin. [Datum: NAD 1983]

(b) *Regulations.* In accordance with the general regulations in Section 165.23 of this part, no person or vessel may enter or remain in the race course portion of this zone, except for participants in the event, supporting personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or his designated representatives. Vessels entering the spectator portion of the Safety Zone must proceed at a slow no-wake speed and, upon notice, shall obey the lawful order or direction of the Captain of the Port or his designated representatives.

(c) *Applicable dates.* This section applies from 8:30 a.m. until 3 p.m., Pacific Daylight Time, on August 3, 4, 5 and 6, 2000.

Dated: June 28, 2000.

M.R. Moore,

Captain, U.S. Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 00–17042 Filed 6–30–00; 4:24 pm]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA084/101–5045a; FRL–6726–4]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revised Format for Materials Being Incorporated by Reference; Approval of Recodification of the Virginia Administrative Code; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correcting amendments.

SUMMARY: This document corrects errors in the rule language of a final rule pertaining to EPA's approval of a recodification of and associated administrative revisions to Virginia's air pollution control regulations. This recodification reorganized and renumbered the Virginia SIP to match the numbering system set forth in the Virginia Administrative Code. In this same action, we also revised the format of 40 CFR part 52 for materials submitted by Virginia that are incorporated by reference (IBR) into the Virginia State implementation plan (SIPs).

EFFECTIVE DATE: July 6, 2000.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (215) 814–2108 or by e-mail at frankford.harold@pa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we'' or ''our'' are used, we mean EPA. On April 21, 2000 (65 FR 21315), we published a final rulemaking action announcing our approval of the revised reorganization of the Virginia Administrative Code (VAC), including reorganization of the air pollution control regulations. The intent of the rule was to approve the revised regulatory structure of Virginia's air pollution control regulations, and to list, in chart form, those Virginia regulatory provisions which had been incorporated by reference into the Virginia SIP.

In this document, we discovered incorrect information and omissions related to entries appearing in the summary rulemaking charts published on pages 21322, 21342, and 21346. In one case, we did not clearly delineate the provisions in Virginia's compliance testing requirements (9 VAC 5–40–20) which we had historically approved, and thus incorporated by reference, as part of the Virginia SIP. In the other case, we omitted the listing of eight other Virginia air pollution control rules (either in the 9 VAC 5 or ''VR'' format) which EPA had incorporated by reference in past rulemaking actions into the SIP. In this action, we are publishing those entries in 40 CFR 52.2420(c) which contained incorrect information or were inadvertently omitted from the document.

At the same time, we had intended to revise the citation of Virginia's compliance testing provision which we had historically disapproved and codified at 40 CFR 52.2423(f) so that it reflects the current 9 VAC 5 citation. This action revises § 52.2423(f) to reflect the correct citation. Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because we are merely correcting an incorrect citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of July 6, 2000. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. The corrections to 40 CFR 52.2420(c) and 52.2423(f) for Virginia are not ''major rules'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by

reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 19, 2000.

Bradley M. Campbell,

Regional Administrator, EPA Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

Subpart VV—Virginia

2. In § 52.2420, the table in paragraph (c) is amended by:

a. Revising entry ''5–40–20'' under Chapter 40, Part I.

b. Adding in numerical order entry ''5–91–40'' under Chapter 91, Part II.

c. Removing entry ''5–480–20'' and adding new entries in its place under 2 VAC 5, Chapter 480.

The revisions and additions read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE VIRGINIA SIP

State Citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
Chapter 40 Existing Stationary Sources [Part IV] Part I Special Provisions				
*	*	*	*	*
5–40–20 (Except A.3)	Compliance	4/17/95	4/21/00 65 FR 21315	120–04–02 (Except A.3).
*	*	*	*	*
Chapter 91 Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area				
*	*	*	*	*
Part II General Provisions				
*	*	*	*	*
5–91–40	Establishment of Regulations and Orders	1/24/97	9/1/99 64 FR 47670	
*	*	*	*	*
2 VAC 5 CHAPTER 480 Regulation Governing the Oxygenation of Gasoline				
VR115–04–28, § 1	Definitions	11/1/93	4/15/94 39 FR 17942	
5–480–20	Applicability	11/1/96	2/17/00 65 FR 8051	SIP Effective Date: 4/3/00.
VR115–04–28, § 3	Minimum oxygenate content	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 4	Nature of oxygenates	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 5	Record keeping and transfer requirements	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 6	Gasoline pump labeling	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 7	Sampling, testing and oxygen content calculations	11/1/93	4/15/94 39 FR 17942	
VR115–04–28, § 8	Compliance and enforcement	11/1/93	4/15/94 39 FR 17942	

§ 52.2423 [Amended]

3. In § 52.2423(f), the citation ''Section 120–04–02.A.3.'' is revised to read ''Section 9 VAC 5–40–20.A.3.''

[FR Doc. 00–16366 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6730–6]

RIN 2060–AE86

National Emission Standards for Hazardous Air Pollutants for Polyether Polyols Production; Synthetic Organic Chemical Manufacturing Industry; Epoxy Resins Production and Non-Nylon Polyamides Production; and Petroleum Refineries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of amendment in direct final rule.

SUMMARY: Due to an adverse comment, the EPA is withdrawing an amendment from the May 8, 2000 direct final rule for National Emission Standards for Hazardous Air Pollutants (NESHAP) for Polyether Polyols Production; Synthetic Organic Chemical Manufacturing Industry; Epoxy Resins Production and Non-Nylon Polyamides Production; and Petroleum Refineries. The amendment being withdrawn deals with the definition of equipment leak in the Petroleum Refineries NESHAP. The withdrawal of the amendment from the direct final rule will only affect sources subject to the Petroleum Refineries NESHAP.

DATES: Amendment 6 in the direct final rule, which amends § 63.641, published on May 8, 2000 (65 FR 26491), is withdrawn as of July 6, 2000. The remaining amendments will be effective July 7, 2000, as stated in the May 8 rule.

ADDRESSES: Docket numbers A–90–20 (Hazardous Organic NESHAP); A–92–37 (Epoxy Resins Production and Non-Nylon Polyamides Production); A–93–48 (Petroleum Refineries); and A–96–38 (Polyether Polyols Production) contain supporting information used in developing the standards. The dockets are located at the U.S. Environmental Protection Agency, 401 M Street SW, Washington, DC 20460, in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Robert E. Rosensteel at (919) 541–5608, Emission Standards Division (MD–13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, electronic mail address ''rosensteel.bob@epa.gov''.

SUPPLEMENTARY INFORMATION: On May 8, 2000, the EPA published a direct final rule (65 FR 26491) and a parallel proposal (65 FR 26544) to amend portions of the NESHAP for Polyether Polyols Production; Synthetic Organic Chemical Manufacturing Industry; Epoxy Resins Production and Non-Nylon Polyamides Production; and Petroleum Refineries. The EPA stated in the direct final rule that if relevant, adverse comments were received by June 7, 2000, the EPA would publish a document to withdraw the affected portions of the direct final rule before its effective date of July 7, 2000. The EPA received an adverse comment on Amendment 6 in the direct final rule and, therefore, is withdrawing Amendment 6. This withdrawal of Amendment 6 only affects sources subject to the Petroleum Refineries NESHAP (40 CFR part 63, subpart CC). Amendment 6 would have changed the definition of equipment leak to add the term ''connectors'' to the equipment leak provisions in the NESHAP.

The adverse comment stated that the EPA's rationale for adding connectors to the list of equipment in the definition of equipment leak was not supported by the record of the rulemaking for the Petroleum Refineries NESHAP. It indicated that meetings with, and correspondence from, EPA and Congress supported flexibility and the New Source Performance Standard (NSPS) option without connectors. Therefore, the EPA is withdrawing this amendment and will decide the appropriate response to this comment. The 19 amendments for which we did not receive adverse comments will become effective on July 7, 2000, as provided in the May 8, 2000 direct final rule (65 FR 26491).

Dated: June 30, 2000.

Robert Brenner,

Acting, Assistant Administrator for Air and Radiation.

[FR Doc. 00–17068 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301008; FRL–6590–1]

RIN 2070–AB78

Tebufenozide; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of tebufenozide (benzoic acid, 3,5-dimethyl-1-(1,1-dimethylethyl)-2-(4-ethylbenzoyl)hydrazide) in or on grapes. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on grapes. This regulation establishes a maximum permissible level for residues of tebufenozide in this food commodity. The tolerance will expire and is revoked on December 31, 2001.

DATES: This regulation is effective July 6, 2000. Objections and requests for hearings, identified by docket control number OPP–301008, must be received by EPA on or before September 5, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301008 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Barbara Madden, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number, 703–305–6463; e-mail address: madden.barbara@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of potentially affected entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under " FOR FURTHER INFORMATION CONTACT."

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select "Laws and Regulations" and then look up the entry for this document under the "**Federal Register**-Environmental Documents." You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301008. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408 (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the insecticide tebufenozide, in or on grapes at 3 parts per million (ppm). This tolerance will expire and is revoked on December 31, 2001. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ."

Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that "emergency conditions exist which require such exemption." This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Tebufenozide on Grapes and FFDCA Tolerances

Grapes are California's number one ranked crop in dollar value, accounting for over 90% of the grapes grown in the United States. The European export market for California wines accounts for well over $250 million. The Grape Leaf folder causes injury in the larval stages by rolling and feeding on the leaves, reducing photosynthetic function. The Omnivorous leaf roller directly reduces grape yields by injuring the flowers and developing berries it feeds on. The Omnivorous leaf roller also allows entry of bunch rot organisms that damage entire clusters which may result in rejection at the winery.

Cryolite is the registered alternative most often used to control both Grape Leaf folders and Omnivorous leaf rollers. However, for the 2000 crop year, nearly all major California wineries with export markets have advised their growers that they will not accept grapes which have been treated with cryolite or any other product which would affect the level of fluorides in wine. The European Community recently established strict tolerance levels of 1 ppm with respect to fluoride residues. There is a direct correlation between even limited use of cryolite on wine grapes which can result in fluoride levels in wine above 3 ppm. Therefore, the State claims that there is no feasible registered alternative available to wine growers to control these pests. EPA has authorized under FIFRA section 18 the use of tebufenozide on grapes for control of Omnivorous leaf roller and Grape leaf folder in California. After having reviewed the submission, EPA concurs that emergency conditions exist for wine grapes for the State. However, the Agency does not believe that an urgent and non-routine finding can be made for table grapes since growers can still use cryolite.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of tebufenozide in or on grapes. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6). Although

this tolerance will expire and is revoked on December 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on grapes after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this tolerance at the time of that application. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether tebufenozide meets EPA's registration requirements for use on grapes or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of tebufenozide by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than California to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for tebufenozide, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT.**

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of tebufenozide and to make a determination on aggregate exposure, consistent with section 408(b)(2), for a time-limited tolerance for residues of tebufenozide in or on grapes at 3 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no observed adverse effect level (NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the dose at which the lowest observed adverse effect level (LOAEL) of concern are identified is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA safety factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{-6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated.

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TEBUFENOZIDE FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Acute dietary females 13–50 years of age	None	Not applicable	Not applicable
Acute dietary general population including infants and children	None	Not applicable	Not applicable
Chronic dietary all populations	NOAEL = 1.8 milligram/kilogram/day (mg/kg/day) UF = 100 Chronic RfD = 0.018 mg/kg/day	FQPA SF = 1 cPAD = chronic RfD ÷ FQPA SF = 0.018 mg/kg/day	Chronic toxicity study in dogs LOAEL = 8.7 mg/kg/day based on growth retardation, alterations in hematology parameters, changes in organ weights, and histopathological lesions in the bone, spleen and liver.
Short-term dermal (1 to 7 days) (residential)	None	Not applicable	Not applicable

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSE AND ENDPOINTS FOR TEBUFENOZIDE FOR USE IN HUMAN RISK ASSESSMENT—Continued

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and Level of Concern for Risk Assessment	Study and Toxicological Effects
Intermediate-term dermal (1 week to several months) (residential)	None	Not applicable	Not applicable
Long-term dermal (several months to lifetime) (residential)	None	Not applicable	Not applicable
Short-term inhalation (1 to 7 days) (residential)	None	Not applicable	Not applicable
Intermediate-term inhalation (1 week to several months) (residential)	None	Not applicable	Not applicable
Long-term inhalation (several months to lifetime) (residential)	None	Not applicable	Not applicable
Cancer (oral, dermal, inhalation)	Tebufenozide is classified as Group E (no evidence of carcinogenicity in humans).	Not applicable	Not applicable

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.482) for the residues of tebufenozide, in or on a variety of raw agricultural commodities. Tolerances, listed under 40 CFR 180.482, currently exist for residues of tebufenozide on apples, berries, brassica crop group, canola, cotton, cranberries, pome fruits, pecans, mint, sugarcane, turnips, fruiting vegetables, leafy green vegetables, and walnuts. Additionally, time-limited tolerances for eggs, milk, pears, peanuts, peppers, rice, sugarcane, sweet potatoes, and livestock commodities of cattle, goats, hogs, horses, poultry and sheep have been established. Risk assessments were conducted by EPA to assess dietary exposures from tebufenozide in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. Toxicity observed in oral toxicity studies were not attributable to a single dose or 1 day exposure. Therefore, no toxicological endpoint was identified for acute toxicity and no acute dietary risk assessment is needed.

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the Dietary Exposure Evaluation Model (DEEM) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments.

Data included in the application indicate no tebufenozide concentration in grape juice or raisins. For the chronic analysis, tolerance level residues and some percent crop treated (PCT) and some market share assumptions were used. Where market share information was available, it was used in preference over PCT data since it is the larger, more conservative number and therefore more protective of human health.

iii. *Cancer.* Tebufenozide is classified as Group E (no evidence of carcinogenicity in humans).

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not under estimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: < 1% almonds, 2% apples, 1% dry beans/peas, 3% fresh cabbage, 2% cole crops, 4% cotton, 3% fresh spinach, 29% processed spinach, 5% sugarcane and 16% walnuts.

The Agency used Percent Market Share information as follows: 10% pome fruit, 19% cotton, 82% sugarcane, 10% fruiting vegetables, 14% leafy vegetables, 18% cole crop vegetables, and 25% blueberries.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to under estimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. The Agency is reasonably certain that the percentage of the food treated is not likely to be an under estimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant

subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which tebufenozide may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for tebufenozide in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of tebufenozide.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/ Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and screening concentration in ground water (SCI-GROW), which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/ EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead, drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to tebufenozide they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the estimated environmental concentrations (EECs) of tebufenozide for chronic exposures are estimated to be 17 parts per billion (ppb) for surface water and 1 ppb for ground water.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Tebufenozide is not registered for use on any sites that would result in residential exposure.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether tebufenozide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, tebufenozide does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that tebufenozide has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety factor for infants and children

1. *Safety factor for infants and children*—i. *In general*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

ii. *Developmental toxicity studies*. In prenatal developmental toxicity studies in rats and rabbits, there was no evidence of maternal or developmental toxicity; the maternal and developmental NOAELS were 1,000 mg/ kg/day (highest dose tested).

iii. *Reproductive toxicity study*. In 2-generation reproduction studies in rats, toxicity to the fetuses/offspring, when observed, occurred at equivalent or higher doses than in the maternal/ parental animals.

iv. *Prenatal and postnatal sensitivity*. The data provided no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to tebufenozide. No maternal or developmental findings were observed in the prenatal developmental toxicity studies at doses up to 1,000 mg/kg/day in rats and rabbits. In the 2-generation reproduction studies in rats, effects occurred at the same or lower treatment levels in the adults as in the offspring.

v. *Conclusion*. There is a complete toxicity data base for tebufenozide and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures. Data provided no indication of increased sensitivity of rats or rabbits to *in utero* and/or postnatal exposure to tebufenozide. Based on this, EPA concludes that reliable data support the use of the standard 100-fold uncertainty factor, and that the 10X safety factor to protect infants and children should be removed.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model

estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water (e.g., allowable chronic water exposure (mg/kg/day) = cPAD—(average food + chronic non-dietary, non-occupational exposure)). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by EPA to calculate DWLOCs: 2 Liter/70 kilograms (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and groundwater are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to tebufenozide in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of tebufenozide on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk*. No toxicological endpoint was identified for acute toxicity. Therefore, no acute aggregate risk assessment is needed.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to tebufenozide from food will utilize 20% of the cPAD for the U.S. population, 75% of the cPAD for non-nursing infants and 51% of the cPAD for children (1–6 years old). There are no residential uses for tebufenozide that result in chronic residential exposure to tebufenozide. In addition, despite the potential for chronic dietary exposure to tebufenozide in drinking water, after calculating the DWLOCs and comparing them to conservative model estimated environmental concentrations of tebufenozide in surface and ground water. EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

Population Subgroup	cPAD mg/kg/day	% cPAD (food)	Surface water EEC (ppb)	Ground water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.018	20%	17	1	500
Non-nursing infants (<1 year old)	0.018	75%	17	1	50
Females (13+, nursing)	0.018	23%	17	1	400

3. *Short-term and intermediate-term risk*. Short-term and Intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Tebufenozide is not registered for use on any sites that would result in residential exposure. Additionally, no toxicological effects have been identified for short-term and intermediate-term toxicity. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. Tebufenozide is classified as Group E (no evidence of carcinogenicity in humans).

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to tebufenozide residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (example—gas chromotography) is available to enforce the tolerance expression. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

B. International Residue Limits

There are no Mexican Maximum Residue Limits (MRL) for tebufenozide in or on grapes. Codex has a 1.0 ppm MRL on grapes for fat soluble tebufenozide. Canada has a tebufenozide MRL on grapes at 0.5 ppm. International harmonization is not feasible for this action.

C. Conditions

Grapes are not rotated; therefore, a discussion of rotational crop requirements is not germane to this action.

VI. Conclusion

Therefore, the tolerance is established for residues of benzoic acid, 3,5-dimethyl-1-(1,1dimethylethyl)-2-(4-ethylbenzoyl)hydrazide, tebufenozide, in or on grapes at 3 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA,

you must identify docket control number OPP–301008 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 5, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301008, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes a time limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). 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 the Executive Order 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established

by Congress in the preemption provisions of FFDCA section 408(n)(4).

IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: June 6, 2000.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), (346a) and 371.

2. In §180.482, by alphabetically adding ''Grapes'' to the table in paragraph (b) to read as follows:

§ 180.482 Tebufenozide; tolerances for residues

* * * * *

(b) *Section 18 emergency exemptions.*

* * *

Commodity	Parts per million	Expiration/ Revocation Date
* * *	*	*
Grapes	3.0	12/31/01
* * *	*	*

* * * * *

[FR Doc. 00–17043 Filed 6–30–00; 3:20 pm]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301007; FRL–6590–3]

RIN 2070–AB

Fludioxonil; Extension of Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for residues of the fungicide fludioxonil in or on strawberries at 2 parts per million (ppm) for an additional 1-year period. This tolerance will expire and is revoked on May 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on strawberries. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: This regulation is effective July 6, 2000. Objections and requests for hearings, identified by docket control number OPP–301007, must be received by EPA on or before September 5, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION.'' To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301007 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 703 308–9362; and e-mail address: schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111 112 311 32532	Crop production Animal production Food manufacturing Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301007. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30

a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA issued a final rule, published in the **Federal Register** of April 21, 1999 (64 FR 19484) (FRL–6073–1), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established a time-limited tolerance for the residues of fludioxonil in or on strawberries at 2 ppm, with an expiration date of May 31, 2000. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of the product Switch 62.5 WG, containing the active ingredients fludioxonil and cyprodinil on strawberries for this year's growing season due to the urgent and non-routine situation which exists for South Carolina strawberry growers due to the cancellation of vinclozolin use on strawberries and the restriction on iprodione use to pre-bloom only; this reduces the number of fungicide applications available for season-long control below that needed, should disease pressure be heavy. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of fludioxonil on strawberries for control of gray mold in South Carolina.

EPA assessed the potential risks presented by residues of fludioxonil in or on strawberries. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of April 21, 1999 (64 FR 19484). Based on that data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 1-year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on May 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on strawberries after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

III. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301007 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before September 5, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit III.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control

number OPP–301007, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

IV. Regulatory Assessment Requirements

This final rule extends a time-limited tolerance under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 petition under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). 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 the Executive Order 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.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

V. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

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

Dated: June 2, 2000.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.516 [Amended]

2. In § 180.516, amend the table in paragraph (b) by changing the date ''5/31/00'' to read ''5/31/01''.

[FR Doc. 00–17075 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[CC Docket No. 92–97; FCC 00–223]

Removal of LMDS Eligibility Restriction

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allows to sunset as of June 30, 2000, the Local Multipoint Distribution Service (LMDS) eligibility restriction. That restriction prohibits incumbent local exchange carriers and cable companies from having an attributable interest in the LMDS A block license that overlaps with ten percent or more of the population in their service areas. The action is taken to complete the Commission's review of this restriction.

EFFECTIVE DATE: Effective June 30, 2000.

FOR FURTHER INFORMATION CONTACT: Peter Wolfe, 202–418–1310.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Third Report and Order and Memorandum Opinion and Order (Third R&O/MO&O) in CC Docket No. 92–97; FCC 00–00–223, adopted June 20, 2000, and

released June 27, 2000. The complete text of this Third R&O/MO&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, S.W., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, S.W., Washington, DC.

Synopsis of the Third R&O/MO&O

1. This Third R&O/MO&O completes the Commission's review of the Local Multipoint Distribution Service (LMDS) eligibility restriction, which prohibits incumbent local exchange carriers (LECs) and cable companies from having an attributable interest in the LMDS A block license that overlaps with ten percent or more of the population in their service area. As a result of that review, the Commission allows the scheduled sunset of that restriction to occur as of June 30, 2000. The eligibility restriction was adopted in the Second Report and Order in this proceeding (62 FR 23148, April 29, 1997), subject to an expiration date of June 30, 2000. The Commission, in adopting the restriction, noted that it would undertake a review of the restriction prior to its sunset. (47 CFR 101.1003(a).)

2. In adopting the LMDS eligibility restriction, the Commission considered four factors. First, that LMDS was a likely vehicle for the provision of local telephony, multi-channel video distribution (MVPD) service, or both. Second, the Commission found that the incumbent local exchange carriers (LECs) and incumbent cable companies were dominant in their respective markets, would have a strong incentive to obtain an LMDS license in order to prevent a new entrant from obtaining the license and competing directly in the incumbent's current market, and would have no incentive to use the LMDS spectrum to offer services that would compete with their own services. Third, the Commission determined that a short-term eligibility restriction, with an opportunity for review, would be the best means to increase competition in the local and telephony and MVPD markets, in light of the Commission's belief that there would be sufficient entity and increases in competition to permit sunset within three years. Fourth, the Commission found that efficiencies arising from ownership of an LMDS system by an incumbent LEC or incumbent cable provider had not been shown.

3. As a result of its review, the Commission first concludes that the standard for determining whether to sunset the eligibility restriction should be whether open eligibility poses a significant likelihood of substantial competitive harm in specific markets, and, if so, whether eligibility restrictions are an effective way to address that harm. The Commission determines that the record does not support a conclusion that open eligibility poses such a significant threat of substantial competitive harm in specific markets; indeed, open eligibility may improve the availability of services, especially in rural areas.

4. The Commission, as discussed more fully in the complete text of the Third R&O/MO&O, therefore finds that the LMDS eligibility restriction should be allowed to sunset because open eligibility (1) will not pose a significant likelihood of substantial competitive harm in any market; (2) is likely to provide access to additional capital to fully develop LMDS; (3) will treat LMDS similarly to substitutable spectrum; and (4) should help make services more available in rural areas.

Administrative Matters

Final Regulatory Flexibility Analysis

5. This is a summary of the Final Regulatory Flexibility Analysis. The full Final Regulatory Flexibility Analysis may be found at Appendix D of the complete Third Report and Order and Memorandum Opinion and Order.

6. In order to ensure compliance with the requirements contained in the Regulatory Flexibility Act (RFA) and to alert all affected entities of the repercussions of the Commission's action, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in Appendix B of the Sixth Notice of Proposed Rulemaking (Sixth NPRM), 64 FR 71373, December 21, 1999, in this proceeding. Additionally, a Final Regulatory Flexibility Analysis was included in Appendix D of the Second Report and Order in this proceeding. The Commission sought written public comment on the proposals in the Fifth NPRM (62 FR 16514, April 7, 1997), including comment on the IRFA. The present Final Regulatory Flexibility Analysis (FRFA), contained in the Third Report and Order and Memorandum Opinion and Order (Third R&O), conforms to the RFA.

Need for, and Objectives, of the Third R&O

7. The Commission allows to sunset the Local Multipoint Distribution Service (LMDS) eligibility restriction which prohibits incumbent local exchange carriers (ILECs) and cable companies from having an attributable interest in the LMDS A-block license that overlaps with ten percent or more of the population in their service areas. This restriction was initially imposed because of concern the ILECs and the cable companies would use LMDS spectrum to eliminate the threat of competitive entry in the local exchange telephone and cable markets, in which they are dominant. The Third R&O finds that the LMDS A-block eligibility restriction is no longer necessary to protect LMDS as a source of competition with ILECs and incumbent cable companies, and that the benefits of removing the restriction outweigh any benefits of retaining the restriction.

Summary of Significant Issues Raised By Public Comments in Response to the IRFA or the FRFA

8. The central issue in this proceeding is the continued need for the eligibility restriction. The restriction was adopted subject to an expiration date of June 30, 2000. The expiration date, like the other issues in this proceeding, was the result of notice and comment procedures. The Commission received fourteen comments and eight reply comments in response to the Sixth NPRM.

9. No comments were received directly regarding the IRFA or the FRFA contained in the Second R&O. The Sixth NPRM sought comment on whether the standard for determining whether the restriction is extended should be that the incumbent LECs or cable companies continue to have substantial market power in the provision of local telephone or cable television services, or if a different standard should be used. As discussed in paragraphs 6–7 of the Third R&O, the Sixth NPRM also suggested two alternative standards. Although most of the commenters support allowing the eligibility rule to sunset, those who comment on the standard are somewhat divided. Several commenters argue in favor of using the market dominance standard to decide whether the eligibility should sunset.

10. The Commission agrees with the majority of parties who comment on the standard issue, and either urge the Commission to adopt the 39 GHz standard or at least to reject the ''substantial market power'' standard. Therefore, the Commission adopts the 39 GHz standard. In paragraphs 8–9 of the Third R&O, the Commission details the rationale for selecting the 39 GHz test as the appropriate standard to apply in determining whether the LMDS restriction should sunset.

11. The Sixth NPRM asked what services are likely to be provided on LMDS. The Commission agrees with the

majority of commenters on this issue who contend that the LMDS A block licensees provide or are expected to provide broadband services, instead of local telephone or cable services. Because the Commission believes that the LMDS A block is not being used to provide services which are primarily local exchange or multi-channel video distribution (MVPD), the Third R&O concludes that it is unlikely that the possible use of LMDS spectrum by incumbents will result in the blocking of entry into those services, and thus allows the restriction to lapse. Commenters also generally contend that the broadband market is robust and competitive, and that incumbent cable companies and incumbent LECs could not use LMDS spectrum to dominate the broadband market. The Commission finds that an increasing number of broadband firms and technologies are providing growing competition to incumbent LECs and cable companies, apparently limiting the threat that they will be able to preclude competition in the provision of broadband services. The Commission also finds no evidence that the incumbent LECs or incumbent cable companies have the incentive to warehouse LMDS licenses in order to protect their control of these markets from competition. These issues are discussed at paragraphs 14—21 in the Third R&O.

12. Although the majority of commenters favor the sunset of LMDS eligibility restrictions, some commenters argue that it is premature to terminate the restriction because the first LMDS products are just becoming available in the United States. Paragraphs 23–33 in the Third R&O explain the Commission's rationale for rejecting this contention. Briefly, the Third R&O sunsets the LMDS eligibility restriction because open eligibility (1) will not pose a significant likelihood of substantial competitive harm in any market; (2) is likely to provide access to additional capital to fully develop LMDS; (3) will treat LMDS similarly to substitutable spectrum; and (4) should help make services more available in rural areas. Paragraphs 14–21of the Third R&O find that the record does not support a conclusion that open eligibility poses a significant threat of substantial competitive harm in specific markets, LEC or MVPD, or that eligibility restrictions are an effective way of addressing potential competitive harm. Paragraph 24 of the Third R&O discusses how removal of the restriction may result in access to capital resources to more fully develop LMDS. Paragraphs 26 and 27 detail why LMDS should be treated no differently from other substitutable spectrum.

13. Paragraphs 28–29 discuss allegations by rural commenters that the LMDS in-region eligibility restriction imposes several disadvantages on small, rural telecommunications carriers. The Third R&O, while recognizing that the eligibility restriction was initially imposed on rural markets because the Commission believed that it could stimulate competition to LEC's in these markets, now finds that this has not occurred, and that allowing the eligibility restriction to sunset will remove possible impediments to small and rural carrier LMDS deployment. The negative effects of the eligibility restriction on small and rural entities and consumers, are discussed more fully in paragraphs 28–32 of the Third R&O.

Description and Estimate of the Number of Small Entities to Which Rules Will Apply

14. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations.

Common Carrier Services and Related Entities. According to data in the most recent Commission *Carrier Locator Interstate Service Providers* report, there are 3,528 interstate carriers, including *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

The SBA has defined establishments engaged in providing ''Radiotelephone Communications'' and ''Telephone Communications, Except Radiotelephone'' to be small businesses when they have no more than 1,500 employees. The Commission discusses the total estimated number of telephone companies falling within the two categories and the number of small businesses in each, and then attempts to refine further those estimates to correspond with the categories of telephone companies that are commonly used under the rules.

The Commission includes small incumbent LECs in this present RFA analysis. The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope.

Total Number of Telephone Companies Affected. The U.S. Bureau of the Census (Census Bureau) reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, covered specialized mobile radio providers, and resellers. The Commission finds it reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small ILECs that may be affected by the action taken in this Third R&O.

Wireline Carriers and Service Providers. The SBA has developed a definition of small entities for telephone communications companies except radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to the SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small ILECs. The Commission is unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 2,295 small telephone communications companies other than radiotelephone companies are small entities or small

ILECs that may be affected by the actions taken in this Third R&O.

Local Exchange Carriers, Competitive Access Providers, Competitive Local Exchange Carriers. Neither the Commission nor the SBA has developed a definition for small providers of local exchange service, competitive access providers, or competitive local exchange carriers. The closest applicable definition under the SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. According to the most recent telecommunications industry revenue data, 1,348 carriers reported that they were engaged in the provision of incumbent local exchange services, and 212 carriers reported that they were providing competitive access or competitive local exchange services. The Commission is unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, the Commission estimates that fewer than 1,560 providers of local exchange service, or of competitive access or competitive local exchange services are small entities or small entities that may be affected by the actions taken in this Third R&O.

A-Block LMDS Providers. The total number of A-block LMDS licenses is limited to 493, one for each Basic Trading Area. The Commission has held auctions for all 493 licenses, in which it defined ''very small business'' (average gross revenues for the three preceding years of not more than $15 million), ''small business'' (more than $15 million but not more than $40 million), and ''entrepreneur'' (more than $40 but not more than $75 million) bidders. There have been 99 winning bidders that qualified in these categories in these auctions all of which may be affected by the actions taken in this Third R&O

Cable Services or Systems. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in revenue annually. This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $11 million in revenue.

The Commission has developed its own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on its most recent information, the Commission estimates that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995, and that there are currently fewer than 1,439 small entity cable system operators.

The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 66 million subscribers in the United States. Therefore, the Commission found that an operator serving fewer than 660,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that the number of cable operators serving 660,000 subscribers or less totals 1,450. The Commission does not request or collect information concerning whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and thus are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act. It should be further noted that recent industry estimates project that there will be a total of 66 million subscribers.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The actions taken in the Third R&O entail no new or revised reporting, recordkeeping or other compliance requirements.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

Although the Commission LMDS eligibility restriction was initially intended to stimulate competition between all sorts of entities, including small entities, only two of the 19 comments that were filed ask that the restriction be retained. The restriction was adopted with a June 30, 2000, sunset date to allow sufficient time for the Commission to conduct a thorough review of the effectiveness of the restriction. The Commission first adopts the 39 GHz approach to determine if the restriction should be extended. Two other alternative standards exist. The first alternative allows that the incumbent LECs or cable companies continue to have substantial market power in the provision of local telephone or cable television services. Two commenters urge the Commission to retain the restriction using the market dominance standard and arguing that LECs and cable companies remain dominant in their respective markets. As discussed in paragraphs 10–11 of the Third R&O, the Commission rejects continued use of the market power standard, because the substantial market power test does not address whether the incumbents are able to preclude competition in other markets which LMDS licensees wish to enter. No comments were submitted in support of the second option that would provide that the incumbent companies possess the incentive and ability to purchase the LMDS block to prevent entry of a competitor.

Thus, the Commission, in the Third R&O concludes that the 39 GHz test is the appropriate standard to apply in determining whether the LMDS eligibility should sunset. The 39 GHz test is a more discerning standard than the standard market power test in that it not only considers the broadest set of market facts and circumstances, but it also will allow the Commission to focus on the issues it needs to decide—whether the incumbents are likely to use their market power to cause substantial competitive harm by preventing the use of LMDS spectrum for services that would otherwise be provided by LMDS licensees, and whether the restrictions will prevent such actions. Paragraphs 8–9 of the Third R&O present a complete discussion of the benefits of the 39 GHz standard.

Finally, as discussed in paragraphs 22–33 of the Third R&O, the Commission has considered the benefits of allowing the eligibility restriction to expire as opposed to the benefits of extending it, and determines, with the support of the large majority of commenters, that allowing the restriction to sunset offers the most benefit to the most parties. Small businesses in particular stand to benefit from removal of the eligibility restriction. Paragraphs 28–32 of the Third MO&O, for example, discuss the effect of the LMDS eligibility restriction on small and rural carrier LMDS deployment, finding that the restriction causes undue hardship for rural carriers,

of which many are small entities, possibly in violation of the Telecommunications Act of 1996. Commenters who argue against retaining the restriction contend that application of the restriction to rural telephone companies imposes significant economic and social costs, that communities served by rural ILEC's are often not sufficiently lucrative markets to attract other providers, that competitive concerns are not applicable in a rural market, and that rural carriers lack the resources to warehouse spectrum. For these reasons, the Commission believes that small businesses will benefit from allowing the LMDS eligibility restriction to sunset rather than to retain the restriction.

Report to Congress: The Commission will send a copy of this Third Report and Order and Memorandum Opinion and Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of the Third Report and Order and Memorandum Opinion and Order and this FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clauses

It is ordered, that 47 CFR 101.1003 is removed. This modification shall become effective on June 30, 2000. (This rule modification may become effective on less than 30 days' notice because it relieves a restriction. *See* 5 U.S.C. 553((d))((1). Moreover, the Commission finds good cause to make this modification effective on less than 30 days' notice because the restriction in the previous rule terminates on June 30, 2000. *See* 5 U.S.C. 553(d)(3).)

The Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this MO&O and FNPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act of 1980, Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601–612 (1980).

List of Subjects in 47 CFR Part 101

Communications, Local multipoint distribution service.

Federal Communications Commission.

Magalie Roman Salas,
Secretary.

Rule Change

Accordingly, 47 CFR part 101 is amended as follows:

PART 101—FIXED MICROWAVE SERVICES

1. The authority citation for Part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

2. § 101.1003 [Removed]

Remove § 101.1003.

[FR Doc. 00–17028 Filed 7–5–00; 8:45 am]
BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 65, No. 130
Thursday, July 6, 2000

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 905

[Docket No. FV00–905–1 PR]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Increased Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule would increase the assessment rate established for the Citrus Administrative Committee (Committee) for the 2000–2001 and subsequent fiscal periods from $0.00385 to $0.0055 per 4/5-bushel carton of citrus handled. The Committee locally administers the marketing order which regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. Authorization to assess citrus handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period begins on August 1 and ends July 31. The assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by August 7, 2000.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, 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. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: http://www.ams.usda.gov/fv/moab.html.

FOR FURTHER INFORMATION CONTACT: William Pimental, Marketing Specialist, Southeast Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 2276, Winter Haven, FL 33883–2276; telephone: (863) 299–4770, Fax: (863) 299–5169; 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, 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 No. 84 and Order No. 905, both as amended (7 CFR part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, hereinafter referred to as the ''order.'' The marketing agreement and order are 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. Under the marketing order now in effect, Florida citrus handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as proposed herein would be applicable to all assessable oranges, grapefruit, tangerines, and tangelos beginning on August 1, 2000, and continue until amended, suspended, or terminated. 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. Such 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 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 rule would increase the assessment rate established for the Committee for the 2000–2001 and subsequent fiscal periods from $0.00385 to $0.0055 per 4/5-bushel carton or equivalent of citrus.

The Florida citrus marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Florida citrus. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 1998–99 and subsequent fiscal periods, the Committee recommended, and the Department approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other information available to the Secretary.

The Committee met on May 26, 2000, and unanimously recommended 2000–2001 expenditures of $255,500 and an assessment rate of $0.0055 per 4/5-bushel carton or equivalent of citrus. In comparison, last year's budgeted expenditures were $245,425. The assessment rate of $0.0055 is $0.00165 higher than the rate currently in effect. The quantity of assessable oranges, grapefruit, tangerines, and tangelos for

the 2000–2001 fiscal period is expected to be 55,000,000 4/5 bushel cartons. The Committee projected 60,500,000 assessable 4/5-bushel cartons of citrus for the 1999–2000 fiscal period. The actual quantity of assessable citrus for 1999–2000 is expected to be 53,500,000 4/5-bushel cartons. Because of this shortfall, the Committee has had to use money from its authorized reserve fund to cover approved expenses. The increase in assessment rate for 2000–2001 is needed to bring the reserve fund to an acceptable level, and to cover increases in the Committee's budgeted expenditures for the 2000–2001 fiscal period.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include $118,300 for salaries, $36,000 for Manifest Department-FDACS, $19,900 for insurance and bonds, $18,500 for retirement plan, $12,450 for miscellaneous and reserve, and $10,000 for telephone. Budgeted expenses for these items in 1999–2000 were $118,300, $14,000, $19,900, $12,600, $9,075, and $9,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Florida citrus. With citrus shipments for the year estimated at 55 million cartons, assessment income should total $302,500. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Funds in the reserve (approximately $111,371) would be kept within the maximum permitted by the order (one-half of one fiscal period's expenses; § 905.42).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate would be in effect for an indefinite period, the Committee would continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department would evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Committee's 2000–2001 budget and those for subsequent fiscal periods would be reviewed and, as appropriate, approved by the Department.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule 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 the 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 11,000 producers of oranges, grapefruit, tangerines, and tangelos in the production area and approximately 80 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the Florida Agricultural Statistical Service and Committee data for the 1998–99 season, the average annual f.o.b. price for fresh Florida citrus during the 1998–99 season was $8.66 per 4/5-bushel carton for all shipments, and the total shipments for the 1998–99 season were 63.6 million cartons of citrus. Approximately 68 percent of the handlers handled 93 percent of Florida citrus shipments. Using information provided by the Committee, about 60 percent of citrus handlers could be considered small businesses under the SBA definition. Although specific data is unavailable, the Department believes that the majority of Florida citrus producers may be classified as small entities.

This rule would increase the assessment rate established for the Committee and collected from handlers for the 2000–2001 and subsequent fiscal periods from $0.00385 to $0.0055 per 4/5-bushel carton of citrus. The Committee unanimously recommended 2000–2001 expenditures of $255,500 and an assessment rate of $0.0055 per 4/5-bushel carton. The proposed assessment rate of $0.0055 is $0.00165 higher than the current rate. The quantity of assessable citrus for the 2000–2001 fiscal period is estimated at 55 million 4/5-bushel cartons. Thus, the $0.0055 rate should provide $302,500 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, would be adequate to cover budgeted expenses. Assessment funds in excess of those needed for approved expenses would be used to increase the Committee's operating reserve.

The major expenditures recommended by the Committee for the 2000–2001 fiscal period include $118,300 for salaries, $36,000 for Manifest Department—FDACS, $19,900 for insurance and bonds, $18,500 for retirement plan, $12,450 for miscellaneous and reserve, and $10,000 for telephone. Budgeted expenses for these items in 1999–2000 were $118,300, $14,000, $19,900, $12,600, $9,075, and $9,000, respectively.

The quantity of assessable oranges, grapefruit, tangerines, and tangelos for the 2000–2001 fiscal period is expected to be much less than in previous seasons. The Committee projected 60,500,000 assessable 4/5-bushel cartons of citrus for the 1999–2000 fiscal period. The actual quantity of assessable citrus for 1999–2000 is expected to be 53,500,000 4/5-bushel cartons. Because of this shortfall, the Committee has had to use money from its authorized reserve fund to cover approved expenses. In an effort to recover from assessment income shortfalls in 1997–98 and 1999–2000, and to bring the reserve fund to an acceptable level, the Committee voted unanimously to increase its assessment rate.

The Committee reviewed and unanimously recommended 2000–2001 expenditures of $255,500 that included increases in administrative costs. Prior to arriving at this budget, the Committee considered information from various sources, such as the Budget Subcommittee, the Grapefruit Subcommittee, and the Regulatory Subcommittee. Alternative expenditure levels were discussed by these groups, based upon the estimated number of assessable cartons of citrus. The assessment rate of $0.0055 per 4/5-bushel carton of assessable citrus was recommended to provide enough income to cover the Committee's estimated expenses for 2000–2001 and to increase its operating reserve. This rate is expected to generate $302,500. This is $47,000 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information and preliminary information pertaining to

the upcoming fiscal period indicates that the grower price for the 2000–2001 fiscal period could range between $4.10 and $19.65 per 4/5-bushel carton of oranges, grapefruit, tangerines, and tangelos. Therefore, the estimated assessment revenue for the 2000–2001 fiscal period as a percentage of total grower revenue could range between .03 and .13 percent.

This action would increase the assessment obligation imposed on handlers. While assessments impose some additional costs on handlers, the costs are minimal and uniform on all handlers. Some of the additional costs may be passed on to producers. However, these costs would be offset by the benefits derived by the operation of the marketing order. In addition, the Committee's meeting was widely publicized throughout the citrus production area and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 26, 2000, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

This proposed rule would impose no additional reporting or recordkeeping requirements on either small or large Florida citrus handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: 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 30-day comment period is provided to allow interested persons to respond to this proposed rule. Thirty days is deemed appropriate because: (1) The 2000–2001 fiscal period begins on August 1, 2000, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable citrus handled during such fiscal period; (2) the Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; and (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years.

List of Subjects in 7 CFR Part 905

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements, Tangelos, Tangerines.

For the reasons set forth in the preamble, 7 CFR part 905 is proposed to be amended as follows:

PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

1. The authority citation for 7 CFR part 905 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 905.235 is revised to read as follows:

§ 905.235 Assessment rate.

On and after August 1, 2000, an assessment rate of $0.0055 per 4/5-bushel carton or equivalent is established for assessable Florida citrus covered under the order.

Dated: June 27, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–16991 Filed 7–5–00; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–107872–99]

RIN 1545–AX18

Coordination of Sections 755 and 1060 Relating to Allocation of Basis Adjustments Among Partnership Assets; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the allocation of basis adjustments among partnership assets under section 755.

DATES: The public hearing originally scheduled for Wednesday, July 12, 2000, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: LaNita Van Dyke of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and/or notice of public hearing that appeared in the **Federal Register** on Wednesday, April 5, 2000, (65 FR 17829), announced that a public hearing was scheduled for Wednesday, July 12, 2000, at 10 a.m., in room 2716, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 755 of the Internal Revenue Code. The public comment period for these proposed regulations expires on Wednesday, July 5, 2000. The outlines of topics to be addressed at the hearing were due on Wednesday, June 21, 2000.

The notice of proposed rulemaking and/or notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Tuesday, June 27, 2000, no one has requested to speak. Therefore, the public hearing scheduled for Wednesday, July 12, 2000, is cancelled.

Cynthia Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 00–16972 Filed 7–5–00; 8:45 am]

BILLING CODE 4830–01–U

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

RIN 1212–AA96

Title IV Aspects of Cash Balance Plans With Variable Indices

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Request for public comment.

SUMMARY: Many cash balance plans use variable indices to determine future retirement benefits. If such a plan terminates in a distress or involuntary termination under Title IV of ERISA, the PBGC must make assumptions—as of the plan's termination date—about the future performance of the variable index. The PBGC is soliciting public comment on what assumptions it should make about that future performance.

DATES: Comments must be received on or before September 22, 2000.

ADDRESSES: Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation,

1200 K Street, NW., Washington, DC 20005–4026, or delivered to suite 340 at the above address. Comments also may be sent by internet e-mail to reg.comments@pbgc.gov. Comments will be available for public inspection at the PBGC's Communications and Public Affairs Department, Suite 240.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, or Catherine B. Klion, Attorney, Pension Benefit Guaranty Corporation, Office of the General Counsel, Suite 340, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (For TTY/TTD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Overview

The PBGC administers the termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Under that program, the PBGC guarantees, subject to certain limits, the benefits payable by covered defined benefit plans.

Many of the PBGC's regulations were written in the early years of the termination insurance program. Since that time—particularly in recent years—defined benefit plans have undergone significant changes in design. One of the more significant changes for the termination insurance program is the emergence of cash balance and other hybrid plans. These new plan designs raise novel issues for the PBGC when it performs valuations and determines benefit entitlements. This notice focuses on how the PBGC should perform these tasks in the case of a cash balance plan that uses a variable index to determine participants' benefits.

Background

A brief explanation of the PBGC's existing valuation and payment rules and of certain aspects of cash balance plans may be helpful to an understanding of the issues raised in this notice.

Valuation and Payment Rules for Traditional Plans

When a defined benefit plan terminates in a distress or involuntary termination, the PBGC allocates the plan's assets among the plan's participants and beneficiaries based on the priority categories established under section 4044 of ERISA. To do so, the PBGC must value the plan's benefit liabilities and the plan's assets as of the plan's termination date. The valuation affects the amount of the PBGC's employer liability claim for plan underfunding. It also affects the extent to which any nonguaranteed portion of a participant's accrued benefit is funded. (Nonguaranteed benefits may be funded either by plan assets under ERISA section 4044 or by PBGC recoveries on its employer liability claims under ERISA section 4022(c).) The PBGC performs this valuation by making assumptions as to the form of the benefit, when payments will begin (*e.g.*, at early or normal retirement age), interest, mortality, etc.

In the case of a traditional defined benefit plan, when the PBGC completes its valuation it generally can determine, and tell the participant, the amount of the annuity benefit payable (at a specified age, and in a specified form) under the termination insurance program. This is so even if retirement is many years away. (The actual amount of the annuity benefit may vary depending on factors such as when the participant chooses to start receiving the benefit and whether the benefit is paid in a ''joint-and-survivor'' form.) Similarly, if the PBGC pays a benefit under a traditional defined benefit plan in lump-sum form (generally only when it cashes out a de minimis benefit of $5,000 or less), it can determine its lump-sum value (*i.e.,* the present value, as of the plan's termination date, of the annuity benefit payable by the PBGC) as soon as it completes its valuation. The PBGC cannot make these determinations as easily in many cash balance plans.

Cash Balance Plans

A cash balance plan is a defined benefit plan that defines a participant's retirement benefit by reference to the amount of a hypothetical account balance. The hypothetical account balance is credited each year with a pay credit and an interest credit, both of which must be specified in the plan. A cash balance plan also must specify the annuity conversion factor (*e.g.,* a factor based on specified interest and mortality assumptions) that it will use to convert the hypothetical account balance to an immediate annuity benefit. Participants in ongoing cash balance plans who separate from employment generally have the right to receive their benefits in annuity form, although they typically choose (with spousal consent) to receive their benefits in lump-sum form. In most cases, the plan defines the lump-sum amount as equal to the hypothetical account balance.

In a cash balance plan, the interest credit may be fixed (*e.g.,* 5%) or based on a variable index (*e.g.,* the yield on 30-year Treasury securities). (Similarly, while the annuity conversion factor may be fixed, it may also vary over time, either because the interest rate is tied to a variable index or because the mortality assumption (*e.g.,* the ''applicable mortality table'' under IRC § 417(e)(3)) may change.) If the plan does not use a fixed interest credit and would not qualify under IRS Notice 96–8 (1996–1 C.B. 359) as a ''safe-harbor'' plan that may pay out the hypothetical account balance as the present value of the participant's benefit, it must include a method for fixing the value of the indices in order to calculate a participant's accrued benefit (see section III.B.1 of Notice 96–8).

When a cash balance plan terminates in a distress or involuntary termination, the PBGC can perform its plan valuation and make its benefit determinations in the same way it does for a traditional defined benefit plan only if the plan's interest credit and annuity conversion factors are fixed or if the plan provides a method for fixing them. In the absence of fixed factors or a plan method for fixing them, the PBGC must determine how to fix the factors.

Although the discussion in this notice focuses on interest credits that are based on variable indices, similar issues arise with respect to annuity conversion factors that may vary over time.

Future Annuity Payments—Following the Variable Index

A variable index presents fewer problems when the PBGC is determining the annuity amount to actually pay a participant at the time the participant begins to receive benefits. The PBGC can—and anticipates that it will—track the future (actual) performance of a variable index so that it will know, at the time a participant begins to receive benefits, the amount of the participant's annuity benefit under the plan and the extent to which that benefit is guaranteed. (However, in the case of a participant whose benefit is not fully guaranteed, how the PBGC fixes the variable index may affect the extent to which there is funding for the nonguaranteed portion of the benefit, as discussed under Fixing the Variable Index, below.)

Although tracking the actual performance of a variable index over time is consistent with plan provisions, it will prevent the PBGC from being able to tell participants before retirement exactly what they will receive at retirement (just as it is impossible for the plan administrator of an ongoing cash balance that uses a variable index to provide this information to participants in advance). The PBGC is considering what types of estimates it

should give when communicating with participants and how often to update these estimates.

Fixing the Variable Index

Section 4044 Valuation

Tracking the actual performance of a variable index over time is not an option for the PBGC when it performs its plan valuation under ERISA section 4044. This is because the PBGC must perform this valuation as of the plan's termination date and thus cannot take into account the actual performance of the variable index after that date. The PBGC values each participant's plan benefit by first determining the annuity benefit payable at retirement and then determining the present value of that future annuity benefit as of the plan's termination date. Thus, the PBGC must fix the variable index (*i.e.,* make an assumption about the future performance of the variable index) as of the plan's termination date to be able to determine, as of that date, what a participant's annuity benefit will be at a future retirement date.

Future Annuity Payments—Funding of Nonguaranteed Benefits

The way in which the PBGC fixes the variable index will not affect the amount of a participant's annuity benefit under the plan or the extent to which that benefit is guaranteed. However, it can affect the section 4044 valuation, which is performed as of the plan's termination date. That valuation, in turn, can affect the extent to which any nonguaranteed portion of the participant's benefit is funded by plan assets or by PBGC recoveries on its employer liability claims.

Lump Sums

The PBGC also must fix the future performance of a variable index to determine the amounts of its (generally *de minimis*) lump-sum payments. This is so because, under the PBGC's traditional methodology for calculating lump sum amounts, it must know the amount of the participant's future retirement benefit in order to determine the lump sum value (based on PBGC assumptions and methods) of that benefit as of the plan's termination date.

The need to fix the variable index would not disappear even if the PBGC were to depart from its traditional methodology for determining lump sum amounts and were instead to base its lump sum payments in ''safe-harbor'' cash balance plans on the amount of the hypothetical account balance. This is because the PBGC can pay the hypothetical account balance only to the extent it is payable under Title IV of ERISA, *i.e.,* guaranteed (under ERISA section 4022(a) and (b)) or funded by plan assets (under ERISA section 4044) or by PBGC recoveries on its employer liability claims (under ERISA section 4022(c))—determinations that the PBGC must make as of the plan's termination date. Thus, the PBGC will need to fix the variable index to determine the extent to which the lump sum is payable.

Possible Methods for Fixing the Variable Index

The PBGC can fix the future performance of a variable index in a number of ways—for example, by using a standardized PBGC value that will apply to all plans that terminate on a given date, by making a ''best estimate'' determination for each plan termination based on generally accepted actuarial principles and practices, by using the index as it stood on the plan's termination date (*i.e.,* the ''spot rate''), or by using some ''historical average'' of the index.

Each approach would present different issues. Using a standardized PBGC value could lead to results that would diverge significantly from what one would expect based on the variable index a plan chose. The ''best estimate'' approach might leave too much discretion with the PBGC. Although the ''spot rate'' approach could be viewed as consistent with the use of the termination date as the date to determine various rights and obligations under the termination insurance program, there would be an issue as to whether this was the best approach where the index was at (or near) a historic high or low or where, as in the case of an equity index, the change in the index could be negative. And the ''historical average'' approach would raise questions as to the period over which the variable index should be averaged and the method of averaging. It also would raise questions as to the data's applicability to the future, particularly where the variable index had existed for only a short time or was volatile (*e.g.,* a stock index).

One option that the PBGC is actively considering, in the common case where a plan uses a variable Treasury index other than the yield on 30-year Treasuries (*e.g.,* the yield on one-year Treasuries), is to combine elements of the ''spot rate'' and ''historical average'' approaches by using a ''modified spot rate'' approach. Under this approach, the PBGC would start with the less volatile spot rate for 30-year Treasuries and adjust it to reflect the historical difference between the yield on 30-year Treasuries and the variable index used.

Request for Comments

The PBGC is soliciting comments on the Title IV aspects of cash balance plans. As detailed in this notice, the PBGC is especially interested in comments on how it should make its valuation and payment determinations under a cash balance plan that uses a variable index to determine benefits, and on what benefit estimates it should give participants in such a plan. While the discussion in this notice focuses on cash balance plans that use variable indices to determine interest credits, the PBGC is also interested in comments on how it should perform these tasks for cash balance plans that use annuity conversion factors that may vary and for other plans that may raise similar issues.

E.O. 12866 Review

The Office of Management and Budget has reviewed this notice under E.O. 12866, Regulatory Planning and Review. However, the PBGC has not yet determined whether there is a need to proceed by rulemaking to address the issues raised in this notice.

Issued in Washington, D.C., this 30th day of June, 2000.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 00–17039 Filed 7–5–00; 8:45 am]

BILLING CODE 7708–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. RM 2000–4A]

Public Performance of Sound Recordings: Definition of a Service

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of reply comment period.

SUMMARY: The Copyright Office of the Library of Congress is extending the period for filing reply comments in the proceeding to consider the merits of a petition filed by the Digital Media Association. The petition seeks a determination that a webcasting service is not deemed to be interactive merely because it offers the consumer some degree of influence over the programming offered by the service.

DATES: Written reply comments are due on July 14, 2000.

ADDRESSES: If sent by mail, an original and ten copies of the reply comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024. If hand delivered, the reply comments, they should be brought to: Office of the General Counsel, James Madison Building, Room LM–403, First and Independence Ave., SE., Washington, DC 20559–6000.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, D.C. 20024. Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 2000, the Copyright Office published a notice of inquiry seeking comments on whether to grant a petition for rulemaking filed with the Copyright Office on April 17, 2000, by the Digital Media Association (DiMA). 65 FR 33266 (May 23, 2000). The petition requests that the Office adopt a rule stating that a webcasting service does not become an interactive service because a consumer exerts some degree of influence over the streamed programming.

Comments in response to the notice of inquiry were filed on June 22, 2000. Two parties filed comments in this proceeding, the Recording Industry Association of America, Inc. and DiMA. On June 30, 2000, DiMA filed a request for an extension of the filing date for reply comments from the initially announced date of July 7, 2000, to July 14, 2000. DiMA asserts that it is in need of more time to develop a meaningful response because the intervening four-day Fourth of July holiday creates logistical difficulties for it and its members. DiMA also suggests that an extension of the filing deadline by a week will create no prejudice to any party interested in filing a reply in this proceeding.

The Office agrees and, therefore, grants the request for a one-week extension of the reply comment filing period. Reply comments are now due on Friday, July 14, 2000.

Dated: June 30, 2000.

David O. Carson,

General Counsel.

[FR Doc. 00–17109 Filed 7–5–00; 8:45 am]

BILLING CODE 1410–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 434

[FRL–6730–7]

Extension of Comment Period for Coal Mining Point Source Category; Amendments to Effluent Limitations Guidelines and New Source Performance Standards; Proposed Rule

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of comment period for proposed rule.

SUMMARY: EPA is extending the comment period for the proposed amendments to effluent limitations guidelines and new source performance standards for the coal mining point source category. The proposed rule was published in the **Federal Register** on April 11, 2000 (65 FR 19439). The comment period for the proposed rule is extended by 60 days, ending on September 8, 2000. This extension is being granted while taking into consideration the court-ordered promulgation deadline for the final rule.

DATES: Comments on the proposed rule will be accepted through September 8, 2000.

ADDRESSES: Send written comments to John Tinger (4303); U.S. Environmental Protection Agency; Ariel Rios Building; 1200 Pennsylvania Ave., N.W.; Washington, DC 20460. Comments delivered by hand should be brought to Room 615, West Tower; 401 M Street, S.W.; Washington, DC. Please submit any references cited in your comments. Submit an original and three copies of your written comments and enclosures. No facsimiles (faxes) will be accepted. For information on how to submit electronic comments, see the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional technical information, contact John Tinger at (202) 260–4992 or at *Tinger.John@epa.gov*. For additional economic information, contact Kristen Strellac at (202) 260–6036 or at *Strellac.Kristen@epa.gov*.

SUPPLEMENTARY INFORMATION: On April 11, 2000, EPA published proposed amendments to effluent limitations guidelines and new source performance standards for the coal mining industry in the **Federal Register** for public review and comment (65 FR 19439). The comment period was scheduled to end July 10, 2000.

EPA has received requests to extend the comment period to allow more time for public comment. While EPA believes the initial comment period of 90 days was adequate, to accommodate these requests EPA is extending the comment period 60 days, through September 8, 2000.

In addition to accepting hard-copy written comments, EPA will also accept comments submitted electronically. Electronic comments must be submitted as a Word Perfect 5/6/7/8 or ASCII file and must be submitted to *Tinger.John@epa.gov*.

Under a consent decree entered by the U.S. District Court for the District of Columbia, EPA is scheduled to promulgate the final rule by December 2001. *See* 65 FR 19442. While this deadline is feasible even with this extension of the comment period, EPA would not support any further extension of the comment period.

Dated: June 29, 2000.

J. Charles Fox,

Assistant Administrator for Water.

[FR Doc. 00–17069 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[IB Docket No. 00–106, FCC 00–210]

Review of Commission's Consideration of Applications Under the Cable Landing License Act

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document solicits comments on a proposed mechanism for streamlining the licensing of international submarine cable systems. Under the proposal, applicants would have three options to qualify for streamlined review. The Commission initiated this proceeding as a means of tailoring its licensing process to encourage rapid, facilities-based entry by multiple firms that can bring new capacity to keep up with the increased demand.

DATES: Comments are due on or before August 21, 2000, and reply comments are due on or before September 21, 2000. Written comments by the public on the proposed information collections are due on or before August 21, 2000. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections before September 5, 2000.

ADDRESSES: Federal Communications Commission, Secretary, 445 12th Street, SW., Room TW–B204F, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any comments on the proposed information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554, or via the Internet to *jboley@fcc.gov,* and to Edward C. Springer, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW, Washington, DC 20503 or via the Internet to edward.springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Peggy Reitzel, Policy and Facilities Branch, Telecommunications Division, International Bureau, (202) 418–1499. For additional information concerning the proposed information collections contained in this Notice of Proposed Rulemaking contact Judy Boley at (202) 418–0214, or email at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, FCC 00–210, adopted on June 8, 2000, and released on June 22, 2000. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) of the Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. The document is also available for download over the Internet at http://www.fcc.gov/Bureaus/International/Notices/2000/fcc00210.txt. The complete text of this document also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20036, (202) 857–3800.

This Notice of Proposed Rulemaking contains proposed information collections subject to the Paperwork Reduction Act of 1995 (PRA). It has been submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collections contained in this proceeding.

Summary of Notice of Proposed Rulemaking

1. On June 8, 2000, the Commission adopted a Notice of Proposed Rulemaking (NPRM) to initiate a proceeding to establish streamlined rules for processing applications for submarine cable landing licenses. This proceeding is one of the Commission's continuing efforts to streamline the submarine cable landing licensing process. The streamlining proposal is designed to provide guidance for industry in submitting applications and for the Commission in reviewing such applications. The streamlining approach is designed to provide more certainty and flexibility for participants in the application process, to promote increased investment and infrastructure development by multiple providers, and to decrease application processing time. The approach in the NPRM reflects broad input from participants in the submarine cable industry. In November 1999, the International Bureau held a Public Forum (64 FR 56347, Oct. 19, 1999) and has held numerous informal meetings with individual industry participants to solicit views about ways the Commission might improve its regulation of the submarine cable landing licensing process to further promote consumer benefits from increased cable capacity and facilities-based competition. The Commission seeks comments on the proposals and tentative conclusions contained in this NPRM.

2. The Commission proposes a mechanism under which an applicant for a submarine cable landing license will have three options to qualify presumptively for grant on a streamlined basis. The NPRM proposes the following three streamlining options: a demonstration that the route on which the proposed cable would operate is or will become competitive; a demonstration of sufficient independence of control of the proposed cable from control of existing capacity on the route; or the existence of certain pro-competitive arrangements.

3. Under the proposal, an applicant could choose any one of the three options to qualify presumptively for grant on a streamlined basis. The Commission states that if an application does not qualify for streamlining, it will be reviewed on a non-streamlined basis without prejudice.

4. The Commission proposes that, when considering an application to land and operate a submarine cable that will connect to a non-WTO member, it would consider whether the applicant is, or is affiliated with, a carrier that has market power in a market where the cable lands. If so, the Commission proposes to consider whether that destination market offers effective competitive opportunities (ECO) for U.S. companies to land or operate a submarine cable in that country. Therefore, the Commission proposes that such a cable would not qualify presumptively for grant on a streamlined basis, and, in addition to the *de jure* and *de facto* ECO criteria, the Commission would continue to consider other factors consistent with the Commission's discretion under the Cable Landing License Act that may weigh in favor of or against grant of a license. The Commission seeks comment on this proposal.

5. The Commission seeks comment on control of three key submarine facilities: the wet link of a submarine cable system; cable landing stations serving a submarine cable system; and exclusive backhaul facilities associated with the landing stations of a submarine cable system. The Commission tentatively concludes that an examination of a firm's influence over these three key facilities is necessary to determine whether a cable project raises competitive concerns. The Commission seeks comment on this tentative conclusion.

6. In the NPRM, the Commission proposes that, to meet any of the three streamlining options, an applicant must provide sufficient documentation. The Commission states that such documentation should include, for example, cable landing license applications, Commission Orders, the International Bureau's Circuit Status Report, the various Construction & Maintenance Agreements (C&MAs) or capacity purchase agreements for the cables, and industry press releases. The Commission seeks comment on other types of documentation that would be useful for applicants seeking to qualify for the streamlining options. The Commission also proposes that the streamlining options should apply equally for initial applications to land and operate submarine cables and to applications to assign or transfer control of existing submarine cable landing licenses. The Commission seeks comment on this proposal.

7. The first proposed streamlining option is a demonstration that the route in question is, or will become, competitive because there are multiple, independently controlled cables serving the route. The Commission proposes that, when an applicant seeks to make a competitive route demonstration, the Commission would consider a ''route'' to be the connection between the U.S. and a landing point in a foreign country. The Commission also notes that an applicant could choose to show that there are other economically comparable means to access the destination route through a landline or submarine connection using another cable or facility stemming from a point-to-point route other than the destination route, *i.e.*, hubbing. The Commission

seeks comment on these methods of defining a route. The Commission also notes that in the context of reviewing certain mergers, the Commission has chosen to adopt a regional approach to analyzing the international transport market. The Commission seeks comment on whether it should instead consider adopting a regional route approach in determining whether there are sufficient competitive options within the submarine cable market. The Commission notes that commenters advocating a regional route approach should address how the Commission might define ''region.''

8. To satisfy the option that the route is or will become competitive, the Commission proposes that an applicant demonstrate that there are at least three independently controlled cables, including the applicant's proposed cable, serving the route on which the applicant wishes to operate the proposed cable. The Commission proposes that an applicant rely only on cables that have become operational within 36 months of the filing of the current application. The Commission seeks comment on whether 36 months is the appropriate cut-off period for cables becoming operational. The Commission also seeks comment on whether three is the appropriate minimum number of independent cables and states that commenters arguing that three is not the appropriate minimum should suggest and support an alternate minimum number.

9. For purposes of the competitive route streamlining option, the NPRM seeks comment on how to attribute control of proposed and existing cables. Specifically, the NPRM seeks comment on the extent of ownership in the three key submarine cable facilities (wet link, cable landing stations, and exclusive backhaul facilities) that would give a firm control of proposed or existing cables for purposes of this streamlining option. The NPRM states that, for example, one approach would be to attribute control of an entire cable to any entity that: owns 50 percent or more of the equity in the wet link of the cable; owns 50 percent or more of the equity in a landing station on the cable; is the exclusive backhaul provider at a landing station of the cable; or exercises de facto control over the wet link of the cable or a landing station on the cable. Alternatively, the NPRM seeks comment on whether there may be other options to consider in determining what level of ownership of key submarine cable facilities would give a firm control of a cable system for purposes of this streamlining option. With regard to the landing station element, the NPRM states that the Commission would not propose to attribute control of any of the cable system to an entity controlling fewer than all of the landing stations in a particular country.

10. Stating that it is concerned that including these demonstrations for all landing points for a proposed cable may create a disincentive for cable landing license applicants seeking to qualify for the competitive route streamlining option to include a loop on the cable that serves a previously underserved country, the Commission seeks comment on whether the Commission should adopt an exception under which a landing point on the route of a proposed cable would not need to be included in the competitive route analysis.

11. The NPRM also seeks comment on whether the Commission should entertain petitions for declaratory ruling regarding the competitiveness of certain routes in lieu of the case-by-case showings as proposed in the NPRM. The NPRM asks commenters to identify specific showings that a petitioner would need to make in order for the Commission to declare a particular route competitive in this manner. The NPRM also asks commenters to address whether the benefits of the proposed 36-month cut-off are so significant that the Commission should not entertain petitions for declaratory ruling regarding the competitiveness of particular routes. The Commission also seeks comment on whether a declaratory ruling should remain effective, if, subsequent to the declaratory ruling, two or more firms that control facilities on the route have merged.

12. The second proposed streamlining option is a demonstration that the proposed cable system will be controlled predominantly by new entrants. For purposes of this streamlining option, the Commission proposes to identify a ''key applicant group'' of a proposed cable and seeks comment on the extent of ownership in the three key submarine cable facilities (wetlink, cable landing stations, and exclusive backhaul facilities) that would give a firm control of a cable system for purposes of including the firm in the key applicant group of a proposed cable. The Commission states that, for example, one approach would be to include in the key applicant group any entity that: owns 50 percent or more of the equity in the wet link of the proposed cable; owns 50 percent or more of the equity in a landing station on the proposed cable; is the exclusive backhaul provider at a landing station of the proposed cable; or exercises de facto control over the wet link of the proposed cable or a landing station on the proposed cable. Alternatively, the Commission seeks comment on whether there may be other options to consider in determining what level of ownership of key submarine cable facilities would give a firm control of a cable system for purposes of including the firm in the key applicant group of the proposed cable.

13. The proposed streamlining option would consist of a demonstration that entities in the key applicant group of a proposed cable control less than 50 percent of the existing wet link capacity on the route to be served by the proposed cable. The Commission states that an applicant that is providing service on the route for the first time could satisfy this proposed streamlining option simply by certifying that the key applicant group of the proposed cable does not control any existing wet link capacity on the route to be served by the proposed cable. In a situation in which an applicant is proposing to serve previously unserved routes, the Commission seeks comment on whether it should streamline the processing of such an application.

14. For a proposed cable whose key applicant group controls existing capacity on the route to be served by the proposed cable, the NPRM states that an applicant could make a showing that it controls less than 50 percent of the existing wet link capacity on the route. The Commission proposes to attribute the entire capacity of an existing cable system to any entity that owns 50 percent or more of the equity in the wet link of the existing cable or exercises de facto control over the wet link of the existing cable. In addition, the Commission seeks comment on whether and to what extent it should attribute to a firm capacity on an existing cable based on the firm's percentage of control of landing stations in any country in which that existing cable lands. The Commission invites alternative proposals for attributing capacity and seeks comment on the appropriate treatment of joint ventures and affiliates in this context.

15. The NPRM proposes that applicants choosing this streamlining option provide a list of all firms in the key applicant group and a calculation of this group's share of existing capacity on the route. The Commission states that it believes that this information should be readily available through cable landing license applications, Commission Orders, the International Bureau's annual Circuit Status Report, the various C&MAs and capacity purchase agreements for the cables, and

industry press releases. Comments are sought on whether this is the case.

16. Global Crossing submitted a proposal it suggests the Commission use as a basis for addressing competitive issues in the submarine cable market in a Notice of Proposed Rulemaking. Specifically, Global Crossing proposes a structural solution under which, for an applicant to receive a submarine cable landing license, the applicant would need to demonstrate that the landing parties on the U.S. end of the cable do not have a combined share of more than 35 percent of the active half circuits, including half circuits of full circuits, on the U.S. side of the route served by the cable. The NPRM seeks comment on this proposal.

17. The third proposed streamlining option is a demonstration of sufficient pro-competitive arrangements. The Commission states that, as a general matter, the pro-competitive provisions should constrain the ability of major carriers on a cable to set supracompetitive prices by controlling backhaul and the timing of the final capacity upgrade of the cable system, which ultimately would result in higher prices for consumers. The Commission seeks comment on its general conclusions, and whether the Commission's licensing processing processes should reflect these goals.

18. As part of the pro-competitive policy, the Commission proposes that an applicant, in ownership or other documents, include specific provisions regarding landing stations and competitive backhaul. The Commission seeks comment on two alternatives for such provisions. First, the Commission states that, in order to qualify for streamlining, applicants might include in ownership or other documents general provisions allowing for sufficient collocation at a landing station by other owners or their designees and stating that there will be no restrictions on who can provide backhaul. Alternatively, the Commission states that, in order to qualify for streamlining, applicants might be required to make more specific demonstrations. As an example, the Commission notes that it might provide that an applicant include provisions explicitly stating that: sufficient space at all landing stations in the United States, and at each foreign landing station on the route where applicants plan to land the proposed cable, will be made available to any other owner, or the designee of any other owner, for the purpose of collocating equipment to provide backhaul; all owners or designees of owners may use such space for the provision by them of backhaul services to others; and there will be no restrictions on the ability of any owner to subcontract the provision of backhaul. The Commission notes that, to make specific demonstrations regarding backhaul, an applicant could include provisions in ownership or other documents explicitly stating that at least two separate parties will provide backhaul, rather than a single entity, at all landing stations in the United States, and at each foreign landing station on the route where applicants plan to land the proposed cable.

19. The Commission seeks comment on these two alternatives and any other alternative that commenters deem to be more appropriate. The Commission also seeks comment on whether collocation and backhaul rights provided by applicants should apply only to owners of equity or to IRU holders as well. In addition, the Commission notes that there has been some concern expressed about high rates charged for connection to cables and backhaul from cable landing stations, and seeks comment on ways in which the Commission might ensure the ability of carriers to obtain connection to a cable and backhaul to points of presence at competitive rates.

20. The Commission also proposes that, in order to qualify under this streamlining option, an applicant include certain provisions in ownership or other documents about wet link capacity upgrades and use of capacity. The Commission seeks comment on whether, in order to qualify for this streamlining option, a provision should be included in ownership or other documents that would allow the capacity of a cable to be upgraded either by a 51 percent vote of the owners or by any group of owners voting to fully fund the cost of the upgrade. The Commission notes that, in the latter case, ownership or other documents would indicate that all owners, not just owners voting to fully fund the upgrade, will have the right to buy into the upgrade consistent with their contractual rights. The Commission also seeks comment on whether a firm's interest in a cable should be measured in terms of circuits, dollar value of investment or some other measure. In addition, the Commission seeks comment on whether, in order to qualify for this streamlining option, an applicant should include provisions in ownership or other documents explicitly stating that, after the initial capacity has been funded, there will be no restrictions on resale or transfer of capacity and no restrictions on parties reselling their ownership shares and/or reselling or leasing their rights on the cable. The Commission seeks comment on whether an applicant should explicitly state that there will be no unreasonable charges assessed on owners wishing to resell or transfer capacity or ownership shares, or wishing to resell or lease their rights on the cable.

21. The Commission also seeks comment on whether, as an additional pro-competitive arrangement, an applicant should include a provision in ownership or other documents explicitly allowing smaller firms to combine their capacity requirements for the purpose of obtaining volume discounts.

22. The Commission also proposes methods to streamline the process and seeks comment on the proposals. The Commission notes because of the unique role of the Executive Branch with respect to submarine cable landing licenses, and because the Commission we intends to coordinate closely with the Executive Branch, the Commission does not propose a wholesale adoption of the Section 214 streamlining process for submarine cable landing license applications. With respect to timing for review of submarine cable landing license applications, the Commission proposes that, if an application qualifies presumptively for grant on a streamlined basis under one of the three streamlining options, the Commission will grant the application 60 days from the date the International Bureau issues a public notice accepting the application for filing, or indicate in a public notice why grant of the application within 60 days cannot be provided. The Commission seeks comment on this proposal and states that it expects that the period between the filing of an application and the release of a public notice ordinarily would not be lengthy because the International Bureau would put an application out on public notice promptly after determining that the application is complete.

23. The NPRM also discusses the possibility of a conditional grant of a cable landing license whereby the Commission would condition its grant of authority on ultimate approval by the Secretary of State. The Commission also proposes to issue streamlined licenses by public notice, rather than by issuing an Order and seeks comment on whether issuing a public notice would satisfy the requirement under the Cable Landing License Act that grants be issued by ''written license.''

24. The Commission states its intention to continue its private submarine cable policy in order to further stimulate competition in the market, but states that it does not

propose to abandon the distinction between submarine cable systems which operate on a common carrier and a non-common carrier basis. The Commission also seeks comment on whether, in a situation in which an applicant is proposing to serve previously unserved routes, the Commission should impose conditions, such as a nondiscrimination requirement, on the license, regardless of whether the Commission grants the license on a streamlined basis. The Commission also seeks comment on the types of situations in which it might be appropriate for the Commission to require a cable to be operated on a common carrier basis and asks commenters to address whether the Commission should consider indirect means to a destination point in determining the level of competition on a route and whether a route is a thin route. The Commission also seeks comment on what effect, if any, the imposition of common carrier regulations or common carrier-like obligations may have on a company's business decision whether to build a cable.

25. In addition, the Commission seeks comment on whether any of the routine conditions currently imposed on cable landing licenses should be eliminated or modified. The Commission also notes that Level 3 suggested that the Commission develop special conditions for the licenses of submarine cables whose participants include carriers that are ''major suppliers,'' regardless of whether those carriers are U.S.-licensed carriers, and states that Level 3 defines a ''major supplier'' as that term is defined in the Reference Paper to the WTO Basic Telecom Agreement. Level 3 argued that to prevent such carriers from acting anticompetitively in the submarine cable market, the Commission should impose conditions relating to: cable station access, requiring a major supplier to provide competing carriers with, for example, physical collocation at the cable station, circuit provisioning and interconnection intervals; backhaul, requiring a major supplier to allow competing carriers to negotiate a backhaul contract with the major supplier on a timely and reasonable basis with nondiscriminatory pricing; and procedures, requiring a major supplier to expedite orders for service with reasonable times and reasonable charges, to ensure freely available information, and, for consortium cables, to separate submarine cable and related operations from terrestrial operations. The Commission seeks comment on Level 3's suggestions and states that commenters advocating that the Commission adopt Level 3's suggestions should indicate whether we should define ''major supplier'' as Level 3 defines the term, or whether we should adopt an alternative definition, and explain how the proposed definition would work in practice.

26. To provide more certainty to potential cable landing license applicants, the Commission proposes a method for determining who should be included as an applicant for a cable landing license. Specifically, the Commission proposes that an entity should be included as an applicant for a cable landing license for a proposed cable system, regardless of whether the entity also is a Section 214 licensee, if the entity is a landing station owner *or:* the entity has a five percent or greater ownership interest in the proposed cable which includes voting rights, except if the ownership is exclusively at foreign points on the cable system, and the entity will use the U.S. points of the cable system in *any* capacity, unless the capacity merely is ''hard-patched'' through and is not dropping traffic in the U.S. or using the U.S. points of the cable system to re-originate traffic. Under the Commission's proposal, if an entity, at the time it files the application and the license is granted does not plan to use the U.S.-points of the cable system, but later decides to do so, that entity would need to file an application to be added to the license. The Commission seeks comment on whether a five percent or greater ownership interest would ensure that we include entities with a significant ability to affect the operation of a cable system, but that we not burden smaller carriers or investors and notes that, under a five percent or greater ownership threshold, fewer entities will be required to obtain licenses than under the current practice. The Commission seeks comment on whether a different percentage would be appropriate to accomplish these goals. The Commission notes, that, under this proposal, an entity that is a licensee for an existing submarine cable but does not own a landing station and has less than a five percent ownership interest in the cable, may file with the Commission a request that its license be relinquished.

27. The Commission also seeks comment on whether it would facilitate processing if it encourages or mandates electronic filing for the applications. As the Commission did with respect to streamlined assignments and transfers of control of international Section 214 authorizations, the Commission proposes to delegate to the International Bureau the authority to identify those particular applications that do warrant public comment and additional Commission scrutiny under current stated Commission policies. Comments are solicited on this proposal as well as others described in the NPRM.

28. The Commission declines to propose modifying or waiving licensing or regulatory fees. The Commission does, however, seek comment generally on whether, if the Commission ultimately adopts the streamlining measures proposed in the NPRM, it would be in the pubic interest to propose a modification of the regulatory fees.

Procedural Matters

29. *Ex Parte Presentations.* This NPRM is a permit but disclose notice and comment rulemaking proceeding. *Ex Parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules.

30. *Initial Regulatory Flexibility Act Analysis.* Pursuant to the Regulatory Flexibility Act, an Initial Regulatory Flexibility Analysis was prepared and is incorporated as Attachment A of this summary. Written comments on the Initial Regulatory Flexibility Act Analysis are requested.

31. *Paperwork Reduction Act.* The NPRM contains proposed information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the proposed information collections contained in the NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Written comments by the public on the proposed information collections are due the same day as comments on the NPRM, August 21, 2000. Written comments must be submitted by OMB on the proposed information collections September 5, 2000. Comments should address the following: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Control Number: 3060–XXXX.

Title: Applications under the Cable Landing License Act.

Form Number: N/A.

Type of Review: New collection.

Respondents: Business and other for-profit entities.

Number of Respondents: 55.

Number of Responses: 55.

Estimated Time Per Response: Under Section 1.767(a)–(e), we estimate approximately 10 hours will be imposed on 15 respondents. Under Section 1.767(f), we estimate 1 burden hour per respondent.

Frequency of Response: On Occasion. Third party disclosure.

Total Annual Burden: 95 hours (50% of burden estimated to be contracted to outside assistance).

Total Annual Costs: $208,875.

Needs and Uses: The information will be used by the Commission to determine the qualifications of applicants to construct and operate submarine cables, including applicants that are affiliated with foreign carriers, and to determine whether and under what conditions the authorizations are in the public interest, convenience, and necessity. The proposed information collections are necessary for the Commission to maintain effective oversight of U.S. carriers that are affiliated with, or involved in certain co-marketing or similar arrangements with, foreign carriers that have sufficient market power to affect competition adversely in the U.S. market. In addition, the Commission must maintain records that accurately reflect a party or parties that control a carrier's operations, particularly for purposes of enforcing the Commission's rules and policies.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603, the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies proposed in this Notice of Proposed Rulemaking (NPRM). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided in Section IV, Subpart C of the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the NPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

In recent years, there has been explosive growth in the number and capacity of submarine cables triggered in large part by increased Internet and data traffic. Because of this increased demand for capacity, the rapid pace of technological development, and the emergence of non-traditional ownership and financing structures in the submarine cable marketplace, the International Bureau has undertaken a review of its policies for licensing submarine cables. The result of this review is the initiation of this proceeding to establish streamlined rules for processing applications for submarine cable landing licenses.

The streamlining proposal in the NPRM is designed to provide guidance for industry in submitting applications and for the Commission in reviewing such applications. The current precedent analyzing competitive issues in the submarine cable market is not extensive. In the absence of extensive precedent, the guidance contained in the proposed streamlining options should help ensure expeditious action on applications. In addition, the streamlining options in this NPRM seek to provide incentives for the development of facilities-based competition and capacity expansion to meet increasing demands.

This approach reflects broad input from participants in the submarine cable industry. In November 1999 the International Bureau held a Public Forum and has held numerous informal meetings with individual industry participants to solicit views about ways the Commission might improve its regulation of the submarine cable landing licensing process to further promote consumer benefits from increased cable capacity and facilities-based competition. Industry participants expressed three objectives: expedited processing of applications, careful review of certain applications to guard against anticompetitive behavior, and encouragement of pro-competitive licensing procedures in other countries. To accomplish and balance these three objectives, the NPRM proposes streamlining that reflects pro-competitive policies. This approach is designed to provide more certainty and flexibility for participants in the application process, to promote increased investment and infrastructure development by multiple providers, and to decrease application processing time.

To achieve these goals, the NPRM proposes a mechanism under which an applicant for a submarine cable landing license will have three options to qualify presumptively for grant on a streamlined basis. The NPRM proposes the following three streamlining options: (1) A demonstration that the route on which the proposed cable would operate is or will become competitive; (2) a demonstration of sufficient independence of control of the proposed cable from control of existing capacity on the route; or (3) the existence of certain pro-competitive arrangements. We believe that, on balance, the streamlining policies proposed in the NPRM are pro-competitive, and that, if an application falls within one of these three categories, we can presume that it is unlikely that we will have competitive concerns about the cable. We note that, if an application does not qualify for streamlining, it will be reviewed on a non-streamlined basis without prejudice.

Our proposal to streamline the submarine cable landing licensing process is part of a continuing streamlining effort. The proposal's structure of identifying categories of applications eligible for streamlined processing is consistent with our process for streamlining Section 214 applications. The Commission continually seeks ways to grant licenses more quickly to allow parties to enter the market rapidly, especially as new technological developments make speed to market crucial for firms competing in the ever changing Internet-driven communications market.

B. Legal Basis

The NPRM is adopted pursuant to Sections 1, 4(i) and (j), 201–255, 303(r) of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 201–255, and the Cable Landing License Act, 47 U.S.C. 34 through 39 and Executive Order No. 10530, Sec. 5(a), reprinted as amended in 3 U.S.C. 301.

C. Description and Estimate of the Number of Small Entities to Which the Proposals Will Apply

The RFA directs agencies to provide a description of, and, where feasible, estimate of the number of small entities that may be affected by the proposals, if adopted. The Regulatory Flexibility Act defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under Section 3 of the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies.

The Census Bureau reports that there were 2,321 such companies that had been operating for at least one year at the end of 1992. According to the SBA's definition, a wireline telephone company is a small business if it employs no more than 1,500 persons. All but 26 of the 2,321 wireline companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 wireline companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 2,295 of these wireline companies are small entities that might be affected by these proposals.

Specifically, the streamlining options contained in the NPRM apply to entities applying for a license to land or operate submarine cables under the Cable Landing License Act, (or entities applying to transfer control of existing submarine cable landing licenses). The proposals, however, may affect other entities as well, including users of submarine cable service such as Internet service providers (ISPs) that lease capacity or purchase indefeasible rights of use (IRUs) on cable systems. The Commission, therefore, encourages these entities to comment on the proposals in the NPRM. The proposals are intended to reduce the burden on all applicants regardless of size, by permitting applicants to seek to have their applications qualify presumptively for grant on a streamlined basis. At this time, we are not certain as to the number of small entities that will be affected by the proposals. Agency data indicates there have been approximately 50 cable landing applications filed with the Commission since 1992, but the total number of licensees is difficult to determine, because many licenses are jointly held by several licensees. Based on this information, we would estimate that there could be 50 or fewer applicants that might be a small entity.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The reporting requirements proposed in the NPRM are voluntary and should not impose specific burdens on small entities. If an applicant for a submarine cable landing license wishes its application to qualify presumptively for a grant on a streamlined basis, the applicant could demonstrate that its application conforms to any one of the three streamlining options described in the NPRM. The NPRM seeks comment on the kinds of demonstrations an applicant could make to qualify for streamlining under the proposals.

The documentation proposed by the NPRM is not standardized. The information is unique to the applicant. Although the information could be submitted in a standardized format, creating such a format would impose a burden on an applicant because the applicant has several options from which to choose for streamlined processing. For example, the NPRM suggests types of documentation including cable landing license applications, Commission Orders, the International Bureau's annual Circuit Status Report, the various C&MAs or capacity purchase agreements for the cables, and industry press releases. The NPRM also seeks comment on other types of documentation that would be useful for applicants seeking to qualify for the streamlining options proposed in the NPRM.

In addition, it is not possible or practical to estimate the costs and burdens associated with the documentation applicants would need to submit to demonstrate satisfaction of the streamlining options. We believe that the applicant's documentation would be information that is maintained by the applicant in the normal course of business, and as such would not impose a significant burden on the applicant. We are seeking comments on possible costs and burdens associated with the documentation applicants would need to submit to qualify for streamlining under the options outlined in the NPRM.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliancor reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage or the rule, or any part thereof, for small entities.

The proposals in this NPRM are designed to provide more certainty and flexibility for applicants, encourage investment and infrastructure development by multiple providers, expand available submarine cable capacity, and decrease application processing time. This may benefit small entities especially because the proposals would facilitate entry into the submarine cable market and expand international services. The Commission has proposed the following three options from which an entity may choose to qualify presumptively for streamlined processing: (1) A demonstration that the route on which the proposed cable would operate is or will become competitive; (2) a demonstration of sufficient independence of control of the proposed cable from control of existing capacity on the route; or (3) the existence of certain pro-competitive arrangements. We request comment on these three streamlining options.

We request comment on whether small entities would be adversely affected by the proposals herein and whether the proposals will enable small entities to respond to the demands of the market with minimum regulatory oversight, delays, and expenses. We believe that our proposals will promote the rapid expansion of capacity and facilities-based competition, which will result in innovation and lower prices for U.S. consumers of international telecommunications services. We believe that our proposals would have either no impact, or would reduce, any economic burdens on small entities.

The NPRM seeks comment on policies of particular benefit to small entities. First, with respect to the proposal regarding which entities need to apply for cable landing licenses, the NPRM notes that the greater a firm's investment in a cable system, the greater ability the firm has to influence the way in which a cable is operated. The NPRM further notes that firms with a greater ability to affect the operation of a cable system would expect to be subject to all conditions and responsibilities that that come with the right to land or operate the cable system. The NPRM notes that entities with minimal investment in a cable system, on the other hand, do not have the same ability to affect the operation of the cable system. There is not the same need, therefore, to subject these entities to the conditions and responsibilities that come with a cable landing license. Under the proposal in the NPRM, therefore, other than landing station owners, entities with less than a five percent ownership interest in a cable system would not need to be

included as an applicant for the cable landing license for a proposed cable. The NPRM notes that, under a five percent or greater ownership threshold, fewer entities will be required to obtain licenses than under the current practice. This means that fewer entities will be subject to the conditions and responsibilities that come with the right to land or operate a cable. The NPRM seeks comment on whether a different percentage would be appropriate to accomplish these goals. In addition, the NPRM provides that an entity that is a licensee for an existing submarine cable but does not own a landing station and has less than a five percent ownership interest in the cable, may file with the Commission a request that its license be relinquished.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Ordering Clauses

Accordingly, pursuant to Sections 1, 4(i) and (j), 201–255 303(r) of the Communications Act as amended, 47 U.S.C. 151, 154(i), 154(j), 201–255, 303(r), and the Cable Landing License Act, 47 U.S.C. 34 through 39 and Executive Order No. 10530, Sec. 5(a), reprinted as amended in 3 U.S.C. 301, this notice of proposed rulemaking is hereby adopted and comments are requested.

The Commission's Consumer Information Bureau, Reference Information Center, *shall send* a copy of this notice of proposed rulemaking, including the Initial Regulatory Flexibility Act Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 1

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications Miscellaneous rules relating to common carriers.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17027 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA–00–1418, MM Docket No. 00–118, RM–9757]

Digital Television Broadcast Service; Lexington, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WKYT Licensee Corporation, licensee of station WKYT–TV, NTSC Channel 27, Lexington, Kentucky, requesting the substitution of DTV Channel 13 for station WKYT–TV's assigned DTV Channel 59. DTV Channel 13 can be allotted to Lexington, Kentucky, in compliance with the principle community coverage requirements of Section 73.625(a) at coordinates (38–02–23 N. and 84–24–10 W). DTV Channel 13 can be allotted to Lexington with a power of 5.0 (kW) and a height above average terrain (HAAT) 300 meters.

DATES: Comments must be filed on or before August 21, 2000, and reply comments on or before September 5, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert A. Beizer, Secretary, WKYT License Corporation, 1201 New York Avenue, NW., Suite 1000, Washington, DC 20005–3917 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–1418, adopted June 26, 2000, and released June 29, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–17045 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA–1417, MM Docket No. 00–117, RM–9810]

Digital Television Broadcast Service; Salem, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Paxson Salem License, Inc., licensee of station KPXG(TV), NTSC Channel 22, Salem, Oregon, requesting the substitution of DTV Channel 4 for DTV Channel 20. DTV Channel 4 can be allotted to Salem, Oregon, in compliance with the principle community coverage requirements of Section 73.625(a) at coordinates (45–30–58 N. and 122–43–59 W.) with a power of 17 (kW) and a height above average terrain (HAT) 455 meters. However, since the community of Salem is located within 400 kilometers of the U.S. Canadian border, concurrence by the Canadian government must be obtained for this proposal.

DATES: Comments must be filed on or before August 21, 2000, and reply comments on or before September 5, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Scott S. Patrick, Dow, Lohnes & Albertson, 1200 New Hampshire Avenue, NW, Suite 800, Washington, DC 20036–6802 (Counsel for Paxson Salem License, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–117, adopted June 26, 2000, and released June 29, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–17046 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA–1419, MM Docket No. 00–119, RM–9879]

Digital Television Broadcast Service; Hazleton, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WOLF License Corporation, licensee of Station WOLF–TV, NTSC Channel 56, Hazleton, Pennsylvania, requesting the substitution of DTV Channel 45 for its assigned DTV Channel 9. DTV Channel 45 can be allotted to Hazleton, Pennsylvania, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (41–11–00 N. and 75–52–10 W.). However, since the community of Hazleton is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government must be obtained for this proposal. As requested, we propose to allot DTV Channel 45 to Hazleton with a power of 546 and a height above average terrain (HAAT) of 488 meters.

DATES: Comments must be filed on or before August 21, 2000, and reply comments on or before September 5, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David D. Oxenford, JoEllen Masters, Fisher, Wayland, Cooper, Leader & Zaragoza, 2001 Pennsylvania Avenue, NW., Suite 400, Washington, DC 20006 (Counsel for WOLF License Corporation).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–119, adopted June 26, 2000, and released June 29, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–17047 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA–1485, MM Docket No. 00–121, RM–9674]

Digital Television Broadcast Service; Kingston, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by WRNN-TV Associates Limited Partnership, licensee of station WRNN-TV, NTSC Channel 62, Kingston, New York, requesting the substitution of DTV Channel 48 for its assigned DTV Channel 21. DTV Channel 48 can be allotted to Kingston, New York, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (41–29–19 N. and 73–56–52 W). As requested, we propose to allot DTV Channel 48 to Kingston with a power of 200 and a height above average terrain (HAAT) of 388 meters. However, since the community of Kingston is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian government must be obtained for this allotment.

DATES: Comments must be filed on or before August 21, 2000, and reply comments on or before September 5, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW-A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Todd M. Stansbury, Wiley, Rein & Fielding, 776 K Street, NW, Washington, DC 20006 (Counsel for WRNN-TV Associates Limited Partnership).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–121, adopted June 30, 2000, and released September 5, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription

Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–17104 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[I.D. 062800A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Exempted Fishing Permits (EFPs)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

SUMMARY: NMFS announces that the Administrator, Northeast Region, NMFS (Regional Administrator), has made a preliminary determination to issue EFPs to conduct experimental fishing operations otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The Maine Department of Marine Resources (MEDMR) submitted an application for the issuance of EFPs to conduct experimental fishing with a maximum of 30 commercial fishing vessels, which warrants further consideration. The EFPs would allow commercial vessels to fish for, retain, and land silver hake (whiting) with mesh smaller than currently allowed in a portion of the Gulf of Maine/Georges Bank Regulated Mesh Area. These experiments would continue investigations designed to demonstrate the effectiveness of a bycatch reduction device (separator grate) assembled on small mesh silver hake (whiting) trawls with a raised footrope configuration. Although the number of trips would be capped at 40 1-day trips per vessel, it is anticipated that participation would be dictated by two interrelated factors: market value of whiting at the dock and the availability of the whiting at sea. Approximately 34 vessels were authorized to participate in last year's experiment from July 1–November 31, 1999, although enrollment periods fluctuated due to the factors identified above. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act provisions require publication of this notification to provide interested parties the opportunity to comment on the proposed experimental fisheries.

DATES: Comments on this notice must be received by July 21, 2000.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on Proposed EFP Proposal.'' Comments may also be sent via facisimile (fax) to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Management Specialist, 978–281–9244.

SUPPLEMENTARY INFORMATION: The MEDMR submitted an application to continue the experimental whiting separator trawl fishery (Separator Trawl Fishery) in the Small Mesh Northern Shrimp Area, a portion of the Gulf of Maine/Georges Bank Regulated Mesh Area. This will provide an additional opportunity to collect information on the effectiveness of the separator grate in combination with the raised footrope trawl configuration (with roller frames), in an effort to show that the separator trawl fishery results in a low bycatch fishery. Although this would be the sixth consecutive year of the experiment, data from previous years are sparse and inclusive, owing in part to three factors: low abundances of whiting in the experimental fishery area, declining market value of whiting, and patchy vessel participation. While monthly percent average bycatch of regulated multispecies was reported at less than 5 percent for sea sampling trips conducted during the 1999 experiment, there were only 11 sea sampling trips taken over the course of the entire season (July though November), with the majority (6 trips) monitoring the at-sea bait transfer fishing activity. As a result, there were insufficient data from the 1999 experimental fishery to demonstrate that the 5 percent bycatch criteria for establishing exempted fishing status could be met for the entire fishery (food and bait fishery components).

A separate component of last year's experiment was to conduct a series of gear trials with a raised footrope trawl configuration that has proved successful in reducing bycatch of flatfish species in small mesh experimental whiting fisheries in Cape Cod Bay, Massachusetts. While there were only twenty tows total conducted during last year's supplemental gear trials, these demonstrated that the raised footrope trawl could be successfully transferred to nets with roller frames (typically a chain sweep is used), and yielded promising results in demersal finfish bycatch reduction. Furthermore, increased cod end mesh size and grate bar spacing combinations tested by participating vessels in the Separator Trawl Fishery showed a considerable decrease in bycatch of small fish, while the addition of the raised footrope trawl showed an additional decrease in bycatch of small flatfish, whiting and red hake. Therefore, in order to gather sufficient data on the separator grate's ability (with and without the raised footrope trawl) to reduce bycatch of regulated species consistent with the requirement of an exempted fishery, as well as to determine whether the fishery as a whole can reach its economic potential, a continuation of the experiment is necessary.

Participants in the Separator Trawl Fishery will be required to elect either a food fishery or bait fishery component designation. However, the MEDMR has stated that the primary focus of this year's fishery will be on the bait fishery, specifically to provide bait for the tuna fishery. As in years past, participants may designate only one fishery component at a time for a minimum enrollment of 7 days. In order to ensure that the conservation priorities for whiting are continually met, the MEDMR has proposed that program participants be limited to landing up to 2,500 lb (1,134 kg) of whiting per trip and be allowed a maximum of 40 1-day trips per vessel. As an additional control measure, the MEDMR has proposed that participation be capped at 30 vessels. Participants will be required to submit timely catch and bycatch information in the form of specialized logbooks provided by MEDMR and through the completion of the NMFS' vessel trip reports required of all commercial fishers. NMFS will continue to look at

logbook compliance issues—consistency in reporting and/or completeness of reports, when considering eligibility for enrollment into the program or continued participation once enrolled.

The MEDMR proposes to continue testing cod end/grate spacing combinations to reduce the bycatch of demersal finfish species, whiting and red hake as follows: cod end mesh sizes of 2 inch knotless square and 2–1/4 inch diamond mesh, and grate bar spacing of 40 mm and 50 mm. In addition, based on the promising findings from previous gear work, all participating vessels will be required to have a raised footrope trawl with 36 inch (0.91 m) dropper chains. The objective of this year's experiment is to reveal the optimal cod end/grate spacing, dropper chain length and ground gear configurations that would be the most effective in reducing bycatch and more selective in catching the appropriate sized whiting in accordance with whiting resource management strategies. The MEDMR also indicates they plan to use the information gained through the experimental gear work to formulate a request for a framework action in hopes of expanding future whiting fishing opportunities in the Gulf of Maine with small mesh.

The MEDMR intends to provide sea sampling coverage to monitor fishing activity and gear performance throughout the course of the experiment, at an estimated frequency of two trips per week. Because of the importance of sufficient sea sampling, the Regional Administrator is considering whether her approval of the fishery should be conditional, with possible withdrawal of approval if the actual level of coverage does not meet the specified level. Periodic reports on the fishery will be required to ensure that the MEDMR continues to meet the required level of observer coverage. The Regional Administrator seeks comment on this issue.

EFPs would be issued to the participating vessels in accordance with the conditions stated therein, and will exempt vessels from the mesh size, days-at-sea, and other gear restrictions of the Northeast Multispecies Fishery Management Plan.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 29, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–17112 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 65, No. 130

Thursday, July 6, 2000

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

Agricultural Research Service

Notice of Intent To Seek Renewed Approval To Collect Information

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the Agricultural Research Service's (ARS) intention to request renewed approval for information collection from applicants for Federal financial assistance, in order to ensure compliance with civil rights laws and regulations. The initial **Federal Register** document for the collection of information was published 62 FR 12789, March 18, 1997.

DATES: Comments on this notice must be received by September 11, 2000 to be assured of consideration.

ADDRESSES: Submit comments and or questions to, Bruce Lee, Extramural Agreements Program Manager, Extramural Agreements Division, Administrative and Financial Management, Agricultural Research Service, U.S. Department of Agriculture, George Washington Carver Center, 5601 Sunnyside Avenue, Room 3–2174, Mail Stop 5110, Beltsville, Maryland 20770, (301) 504–1148; fax (301) 504–1262; e-mail comments to: blee@ars.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Application for ARS funding for grants and assistance-type cooperative agreements.

Type of Request: Renewed approval to collect information from applicants for Federal financial assistance.

Abstract: ARS' Federally assisted programs consist of the following types of extramural awards executed under the requirements of Pub. L. 95–224, Federal Grant and Cooperative Agreement Act of 1977:

1. Grants and Assistance-Type Cooperative Agreements awarded in support of basic or applied research.

2. Grants awarded in support of research conferences and symposiums, and other non-research activity.

The U.S. Department of Justice, Civil Rights Division, has determined that ARS has the responsibility to collect such data from entities that have applied or received Federal assistance in the form of grants or assistance-type cooperative agreements in order to ensure compliance with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments Act of 1972, and the Rehabilitation Act of 1973. Together these acts prohibit discrimination on the basis of race, color, national origin, sex, or disability in any program receiving Federal financial assistance.

ARS' data collection duties are pursuant to 28 CFR part 42 (§ § 42.401–42.15), which the Department of Justice references as the legal basis regarding Title VI for all Federal agencies extending Federal assistance. The purpose of part 42 is to insure that Federal agencies which extend financial assistance properly enforce Title VI of the Civil Rights Act of 1964. Part 42 further states that Federal agencies which extend financial assistance have the responsibility to enforce Title VI, in accordance with the authority under Executive Order 12250. In addition, the Department of Agriculture's TItle VI regulations at 7 CFR 15.5(a) require the ARS, as the administering agency, to conduct compliance reviews of the practices of recipients of ARS grants and assistance-type cooperative agreements to determine compliance with requirements of the Title VI.

Furthermore, the Department of Agriculture is responsible for ensuring compliance with Title VI pursuant to Executive Order 12250, 45 CFR 86.1 *et seq.,* and 7 CFR 15a.1 *et seq.,* and compliance with the Rehabilitation Act pursuant to Executive Order 12250, 28 CFR 41.1 *et seq.,* and 7 CFR 15b.1 *et seq.*

Data requested to assure compliance with these Civil Rights Acts and regulations include (1) race, national origin, sex, and disability information on employees conducting the research, and membership of planning and advisory bodies, and (2) other information necessary to effectively enforce Title VI, Title IX, and the Rehabilitation Act.

Information obtained from the public includes: Federal Financial Assistance Civil Rights Assurance Questionnaires; Applications for Funding; Grants and Assistance Type Cooperative Agreement Budget Information; Other Current and Pending Federal Financial Assistance Support; Research Assurance Statements; and Assurances of Compliance with the Department of Agriculture Regulations Assuring Civil Rights Compliance Statements.

Estimated of Burden: Public reporting burden for this collection of information is estimated to average four hours per set, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Respondents: Universities, animal and plant research scientists, and individuals who perform research relevant to the mission of ARS.

Estimated Number of respondents: 200.

Estimated Total Annual Burden on Respondents: 800 hours.

Comments: Comments are invited on (a) whether the renewed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimated 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 collected; and (d) ways to minimize the burden of those who respond, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques.

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.

Signed at Beltsville, Maryland.

Dated: June 19, 2000.

Gene P. Spory,

Associated Deputy Administrator, Financial Management Division.

[FR Doc. 00–17064 Filed 7–5–00; 8:45 am]

BILLING CODE 3410–03–M

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Request for Extension of a Currently Approved Information Collection

AGENCY: Farm Service Agency, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of the Farm Service Agency (FSA) to an extension of currently approved information collections used in support of the FSA, Farm Loan Programs (FLP). This renewal does not involve any revisions to the program regulations.

DATE: Comments on this notice must be received on or before September 5, 2000 to be assured consideration.

FOR FURTHER INFORMATION CONTACT: Cathy Quayle, Senior Loan Officer, USDA, FSA, Farm Loan Programs, Loan Making Division, 1400 Independence Avenue, SW., STOP 0522, Washington, DC 20250–0522; Telephone (202) 690–4018; Electronic mail: cquayle@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Operating Loans; Policies, Procedures, and Authorizations.

OMB Control Number: 0560–0162.

Expiration Date of Approval: June 30, 2000.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The information collected under OMB Control Number is 0560–0162 is necessary to administer the operating loan program in accordance with the requirements in 7 CFR 1941 Subpart A as authorized by the Consolidated Farm and Rural Development Act. Specifically, the Agency uses the information to evaluate loan making or loan servicing proposals. The information is needed for the Agency to evaluate an applicant's eligibility, and to determine if the operation is economically feasible and the security offered in support of the loan is adequate.

Estimate of Respondent Burden: Public reporting burden for this collection of information is estimated to average .12 hours per response.

Respondents: Individuals or households, businesses or other for profit and farms.

Estimated Number of Respondents: 49,492.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 6,014.

Comments are sought on these requirements including: (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 collections techniques or other forms of information technology.

These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Cathy Quayle, USDA, FSA, Farm Loan Programs, Loan Making Division, 1400 Independence Avenue, SW, STOP 0522, Washington, DC 20250–0522. Copies of the information collection may be obtained from Cathy Quayle at the above address. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC, on June 28, 2000.

Parks Shackleford,

Acting Administrator, Farm Service Agency.

[FR Doc. 00–16988 Filed 7–5–00; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). It has been submitted to OMB under emergency clearance procedures. The Department is requesting OMB approval by no later than July 7, 2000.

Agency: National Telecommunications and Information Administration.

Title: Survey Instrument to Support the Annual Minority Broadcast Ownership Report.

Agency Form Number(s): None.

OMB Approval Number: None.

Type of Request: New collection—Emergency Submission.

Burden: Approximately 400 hours.

Number of Respondents: 400 persons.

Average Hours per Response: 1 hour.

Needs and Uses: The Minority Telecommunications Development Program (MTDP), National Telecommunications and Information Administration has developed a survey instrument that it intends to use to collect information for its annual minority broadcast ownership report. The instrument will be the principle method for systematically gathering detailed information about the challenges confronting minority entrepreneurs entering the broadcast industry or expanding operations. The report will provide a basis for major national policies to increase minority participation in this arena, as well as Administration initiatives to promote economic opportunity for minority-owned businesses generally.

Affected Public: Businesses or other for-profit organizations.

Frequency: On Occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 6086, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to David Rostker, OMB Desk officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20503 by no later than July 7, 2000.

Dated: June 30, 2000.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 00–17053 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1109]

Approval for Expanded Manufacturing Authority (Postage Franking Machines and Electronic Business Equipment) Within Foreign—Trade Subzone 77B, Brother Industries (U.S.A.) Inc., Bartlett, TN

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u),

the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the City of Memphis, Tennessee, grantee of Foreign-Trade Zone 77, has applied to expand the scope of manufacturing authority for FTZ Subzone 77B (Brother Industries (U.S.A.) Inc. facilities in Bartlett, Shelby County, Tennessee) to include production of postage franking machines and electronic business equipment under FTZ procedures (FTZ Doc. 50–99; filed 10–18–99);

Whereas, notice inviting public comment was given in **Federal Register** (64 FR 60766, 11–8–99); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby approves the request subject to the FTZ Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 26th day of June 2000.

Troy H. Cribb,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 00–17107 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–805]

Preliminary Results of Antidumping Duty Administrative Review; Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of preliminary results of antidumping duty administrative review.

EFFECTIVE DATE: July 6, 2000.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide (''PPD-T aramid'') from the Netherlands in response to requests by respondent, Twaron Products V.o.F. (formerly Aramid Products V.o.F.) and Twaron Products Inc. (formerly Akzo Nobel Aramid Products, Inc.) (collectively ''Twaron''), and petitioner, E.I. DuPont de Nemours and Company. This review covers sales of this merchandise to the United States during the period June 1, 1998, through May 31, 1999, by Twaron. The results of the review indicate the existence of dumping margins for the above period.

We invite interested parties to comment on these preliminary results. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Michael Grossman, AD/CVD Enforcement, Office 6, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0984 or (202) 482–3146, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (April 1999).

SUPPLEMENTARY INFORMATION:

Background

The Department published in the **Federal Register** the antidumping duty order on PPD-T aramid from the Netherlands on June 24, 1994 (59 FR 32678). On June 9, 1999, we published in the **Federal Register** (64 FR 30962) a notice of ''Opportunity to Request an Administrative Review'' of this order covering the period June 1, 1998, through May 31, 1999.

In accordance with 19 CFR 351.213(b), Twaron and petitioner requested that we conduct an administrative review for the aforementioned period. On July 29, 1999, the Department published a notice of ''Initiation of Antidumping Review'' (64 FR 41075). The Department is now conducting this administrative review pursuant to section 751 of the Act.

Scope of Review

The products covered by this review are all forms of PPD-T aramid from the Netherlands. These consist of PPD-T aramid in the form of filament yarn (including single and corded), staple fiber, pulp (wet or dry), spun-laced and spun-bonded nonwovens, chopped fiber, and floc. Tire cord is excluded from the class or kind of merchandise under review. This merchandise is currently classifiable under the *Harmonized Tariff Schedule of the United States* (''*HTSUS*'') item numbers 5402.10.3020, 5402.10.3040, 5402.10.6000, 5503.10.1000, 5503.10.9000, 5601.30.0000, and 5603.00.9000. The *HTSUS* item numbers are provided for convenience and Customs purposes. The written description of the scope remains dispositive.

Verification

As provided in Section 782(i) of the Act, we verified the information submitted by Twaron Products V.o.F. and Twaron Products Inc. from May 8 through May 12, 2000, in the Netherlands, and on May 17 and May 18, 2000, in the United States. *See* June 9, 2000, *Verification of the Sales Response of Twaron Products V.o.F. Memorandum.* The public version of this verification report is on file in the Central Records Unit (''CRU'') of the Department of Commerce (Room B–099).

Transactions Reviewed

In accordance with section 751 of the Act, the Department is required to determine the normal value (''NV'') and export price (''EP'') or constructed export price (''CEP'') of each entry of subject merchandise. *See* section 751(a)(2)(A). Because there can be a significant lag between entry date and sale date for CEP sales, it has been the Department's practice to examine U.S. CEP sales during the period of review (''POR''). *See Gray Portland Cement and Clinker from Japan; Final Results of Antidumping Duty Administrative Review*, 58 FR 48826 (1993) (the Department did not consider ESP (now CEP) entries which were sold after the POR). The Court of International Trade (''CIT'') has upheld the Department's practice in this regard. *See The AD Hoc Committee of Southern California Producers of Gray Portland Cement* v. *United States*, 914 F. Supp. 535, 544–45 (CIT 1995).

Comparisons to NV

In accordance with section 771(16) of the Act, we considered all products covered by the Scope of the Review which were sold by the respondent in the home market during the POR to be foreign like products for purposes of product comparisons to U.S. sales.

Pursuant to section 777A(d)(2) of the Act, where there were home market sales that passed the cost of production (''COP'') test, as discussed below, we

compared the CEPs of individual U.S. transactions to the monthly weighted-average NV of the foreign like product. Where there were no sales of identical or similar merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the constructed value (''CV'') of the product sold in the home market during the comparison period.

Constructed Export Price

The Department based its margin calculation on CEP, as defined in sections 772(b), (c), and (d) of the Act, because all sales to the first unaffiliated purchaser in the United States took place after importation.

We calculated CEP based on delivered prices and FOB warehouse prices to unaffiliated purchasers in the United States. Where appropriate, we reduced these prices to reflect rebates. In accordance with section 772(d)(1) of the Act, we deducted direct selling expenses, *i.e.,* credit expenses, technical service expenses, warranty expenses, third-party payments, and repacking, and indirect selling expenses, including inventory carrying costs, which related to commercial activity in the United States. We made deductions for movement expenses (international freight, brokerage and handling, U.S. duties, domestic inland freight, U.S. inland freight, and insurance) in accordance with section 772(c)(2) of the Act. We also made deductions for further manufacturing in accordance with section 772(d)(2). Finally, we also deducted from CEP an amount for profit in accordance with sections 772(d)(3) and (f) of the Act.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because Twaron's aggregate volume of the home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provides a viable basis for calculating NV on home market sales.

We calculated NV based on packed, ex-factory or delivered prices to unaffiliated purchasers in the home market. We made adjustments for discounts. Where applicable, we deducted home market packing costs and added U.S. packing costs. In accordance with section 773(a)(6) of the Act, where applicable, we made deductions from the starting price for inland freight and inland insurance. In addition, we made a circumstance of sale adjustment for imputed credit expenses, in accordance with section 773(a)(6)(C)(iii) of the Act. Prices were reported net of value added taxes (''VAT'') and, therefore, no deduction for VAT was necessary. We made adjustments, where appropriate, for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and the subject merchandise.

We derived the CEP offset amount from the amount of the indirect selling expenses on sales in the home market. See *Level of Trade* section of this notice. We limited the home market indirect selling expense deduction by the amount of the indirect selling expenses deducted from CEP, pursuant to section 772(d) of the Act.

Cost of Production Analysis

In the most recently completed administrative review of Twaron, we disregarded sales found to be below the COP. Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department has reasonable grounds to believe or suspect that sales below the COP may have occurred during this review period. Thus, pursuant to section 773(b) of the Act, we initiated a COP investigation of Twaron in the instant review.

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, based on the sum of the cost of materials and fabrication employed in producing the foreign like product, plus amounts for home market selling, general and administrative (''SG&A'') expenses and packing costs in accordance with section 773(b)(3) of the Act. We used the home market sales data and COP information provided by Twaron in its questionnaire responses.

After calculating a weighted-average COP, we tested whether home market sales of PPD–T aramid were made at prices below COP within an extended period of time in substantial quantities, and whether such prices permitted recovery of all costs within a reasonable period of time. We compared model-specific COP to the reported home market prices less any applicable movement charges, discounts, and indirect selling expenses.

Pursuant to section 773(b)(2)(C), where less than 20 percent of Twaron's sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' In accordance with section 773(b)(2)(B) and (D) where 20 percent or more of home market sales of a given product during the POR were at prices less than the COP, we found that such sales were made in substantial quantities within an extended period of time. Because the sales prices would not permit recovery of all costs within a reasonable period of time, we disregarded those below-cost sales and used the remaining sales to determine NV in accordance with section 773(b)(1). For those models of PPD–T aramid for which there were no home market sales available for matching purposes, we compared CEP to CV.

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Twaron's cost of materials and fabrication employed in producing the subject merchandise, SG&A and profit incurred and realized in connection with production and sale of the foreign like product, and U.S. packing costs. In accordance with section 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by Twaron in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

We used the costs of materials, fabrication, and SG&A as reported in the CV portion of Twaron's questionnaire response. We used the U.S. packing costs as reported in the U.S. sales portion of Twaron's questionnaire response. We based selling expenses and profit on the information reported in the home market sales portion of Twaron's questionnaire response. *See Certain Pasta from Italy; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 61 FR 1344, 1349 (January 19, 1996). For selling expenses, we used the average of the home market selling expenses weighted by the respective quantities sold. For actual profit, we first calculated the difference between the home market sales value and home market COP for all home market sales in the ordinary course of trade, and divided the sum of these differences by the total home market COP for these sales. We then multiplied this percentage by the COP for each U.S. model to derive profit amount. Finally, the CEP offset was derived in the same manner described in the *Normal Value* section of this notice.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade as the EP or CEP. The NV level of trade is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For EP, the U.S. level of trade is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, the level of trade is based on the transaction between the exporter and the importer for which we construct the price.

To determine whether NV sales are at a different level of trade than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level of trade adjustment pursuant to section 773(a)(7)(A) of the Act.

Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731, 61732–33 (November 19, 1997) (*''South Africa Final''*).

For purposes of our analysis, we examined information regarding the distribution systems in both the United States and the Dutch markets, including the selling functions, classes of customer, and selling expenses. Upon consideration of the above mentioned factors, the Department determined that there is one level of trade and one channel of distribution in the home market (direct to end users) and a different level of trade in the U.S. market (sales to an affiliated distributor). As such, we were unable to make product comparisons at the same level of trade nor were we able to calculate a level of trade adjustment. We have determined that Twaron's NV sales to end-users/converters in the home market, as well as CV, are at a more advanced stage of distribution than CEP sales. As a result, the Department has preliminarily determined to grant Twaron an adjustment to NV in the form of a CEP offset.

For a detailed description of our level-of-trade analysis for these preliminary results, see the June 29, 2000, *Level of Trade Analysis Memorandum* to The File, on file in the CRU, Room B–099 of the main Commerce building.

Currency Conversion

For purposes of the preliminary results, we made currency conversions in accordance with section 773A of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. *See* Change in Policy Regarding Currency Conversions, 61 FR 9434 (March 8, 1996). Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. *See South Africa Final.* The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine that a fluctuation exists, we substitute the benchmark for the daily rate, in accordance with established practice. Therefore, for purposes of the current review, we have made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales based on the methodology discussed above.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

Exporter/manufacturer	Weighted-average margin
Twaron	3.20%

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at the hearing, within 120 days from the publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department shall determine, and the United States Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated importer-specific assessment rates by aggregating the dumping margins calculated for all U.S. sales and dividing this amount by the estimated entered value (provided by respondents) of the same merchandise on an importer-specific basis. Upon completion of this review, the Department will instruct the U.S. Customs Service to assess antidumping duties on all entries during the POR by applying the assessment rate to the entered value of the merchandise.

Cash Deposit Requirements

To calculate the cash-deposit rate for Twaron in this administrative review, we divided the total dumping margins for Twaron by the total net value of Twaron's sales during the review period. Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of PPD–T aramid from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Twaron will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis,* the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (''LTFV'')

investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 66.92 percent, the ''All Others'' rate established in the LTFV investigation. *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Aramid Fiber Formed of Poly-Phenylene Terephthalamide From The Netherlands,* 59 FR 32678 (June 24, 1994).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 29, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–17106 Filed 7–5–00; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Intent To Not Revoke in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of the preliminary results of antidumping duty administrative review and intent not to revoke in part.

SUMMARY: In response to a request from respondent Ta Chen Stainless Pipe Co., Ltd. (''Ta Chen''), the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. This review covers one manufacturer and exporter of the subject merchandise. The period of review (''POR'') is June 1, 1998 through May 31, 1999. We preliminarily determine that sales have been made below normal value (''NV''). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries of Ta Chen's merchandise during the period of review, in accordance with the Department's regulations (19 CFR 351.106 and 351.212(b)). The preliminary results are listed in the section titled ''Preliminary Results of Review,'' *infra.*

EFFECTIVE DATE: July 6, 2000.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Sally Gannon, or Robert Bolling, Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0408, (202) 482–0162 and (202) 482–3434, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 351 (1999).

Background

On June 16, 1993, the Department published in the Federal Register (58 FR 33250) the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. On June 9, 1999, we published in the **Federal Register** (64 FR 30962) a notice of opportunity to request an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan covering the period June 1, 1998 through May 31, 1999. On June 30, 1999, petitioners, Markovitz Enterprises, Inc. (Flowline Division), Alloy Piping Products Inc., Gerlin, Inc., and Taylor Forge, requested that the Department conduct an administrative review of Ta Chen for the period of June 1, 1998 through May 31, 1999. On June 30, 1999, Ta Chen also requested that we conduct an administrative review for the aforementioned period and requested revocation of the Department's antidumping duty order on pipe fittings from Taiwan. On July 29, 1999, the Department published a notice of initiation of this antidumping duty administrative review for the period of June 1, 1998 through May 31, 1999 (64 FR 41075).

On July 29, 2000, the Department issued to Ta Chen its antidumping questionnaire. On September 21, 1999, Ta Chen reported that it made sales of subject merchandise to the United States during the period of review (''POR'') in its response to Section A of the Department's questionnaire. On October 13, 1999, Ta Chen submitted its response to Sections B, C, and D of the Department's questionnaire. On January 31, 2000, the Department issued to Ta Chen the supplemental questionnaire to Sections A, B, C and D of the Department's questionnaire. On March 10, 2000 and April 4, 2000, Ta Chen submitted its supplemental responses to Sections A, B, C, and D of the Department's questionnaire. On April 24, 2000, the Department issued to Ta Chen its second supplemental questionnaire to Sections A, B, C and D. On May 16 and 18, 2000, Ta Chen submitted its second supplemental responses to Sections A, B, C, and D of the Department's questionnaire. On June 2, 2000, the Department issued to Ta Chen its third supplemental questionnaire to Sections A, B, C, and D of the Department's questionnaire. On June 7, 2000, Ta Chen submitted its third supplemental response to Sections A, B, C, and D of the Department's questionnaire.

Pursuant to section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 245 days. On March 6, 2000, the Department extended the time limits for these preliminary results to June 28, 2000 in accordance with the Act. *See* Notice of Postponement of Preliminary Results of Antidumping Duty Administrative Review: Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan, 65 FR 11766 (March 6, 2000).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

The products subject to this investigation are certain stainless steel butt-weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter. Certain welded stainless steel butt-weld pipe fittings (''pipe fittings'') are used to connect pipe sections in piping systems where conditions

require welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; and (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: ''elbows'', ''tees'', ''reducers'', ''stub ends'', and ''caps.'' The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this review are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (''HTSUS'').

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this review is dispositive. Pipe fittings manufactured to American Society of Testing and Materials specification A774 are included in the scope of this order.

Period of Review

The POR for this administrative review is June 1, 1998 through May 31, 1999.

Verification

Due to administrative constraints, verification prior to the issuance of this notice of preliminary results was not conducted. The Department's regulations state, at section 351.307(b)(iii), that the Department will verify factual information upon which it relies in the final results of a revocation under section 751(d) of the Act, prior to issuing final results in an administrative review. Accordingly, the Department will verify the information to be used in the final results, after these preliminary results.

Product Comparison

In accordance with section 771(16) of the Act, we considered all pipe fittings produced by Ta Chen, covered by the description in the ''Scope of Review'' section of this notice, supra, and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to pipe fittings sold in the United States. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Ta Chen as follows (listed in order of preference): specification, seam, grade, size and schedule.

Although section 771(16) of the Act states that foreign like products are merchandise produced in the same country by the same person, for purposes of these Preliminary Results, we have also considered merchandise purchased from other Taiwanese manufacturers and re-sold by Ta Chen that matched the aforementioned physical characteristics to be foreign like products because we did not have sufficient information to match subject merchandise to foreign like products on a producer-specific basis. However, we intend to seek further information on this issue at verification and will reconsider the issue for the Final Results based on any additional information obtained at verification. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in the Department's March 1, 2000 instructions, or to constructed value (''CV''), as appropriate.

Date of Sale

The Department's regulations state that the Department will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. *See* 19 CFR 351.401(i). If Commerce can establish ''a different date [that] better reflects the date on which the exporter or producer establishes the material terms of sale,'' Commerce may choose a different date. *Id.*

In the present review, Ta Chen claimed that invoice date should be used as the date of sale in both the home market and U.S. market. Ta Chen stated that ''for both U.S. and Taiwan sales, there was only one type of sales agreement—*i.e.,* through order confirmation.'' See Ta Chen's Supplemental Response at 4 (March 10, 2000). Ta Chen reported that there is no lag time between invoice and shipment. *See* Ta Chen's Second Supplemental Questionnaire Response, at 4 (May 16, 2000). Moreover, Ta Chen did not indicate any industry practice which would warrant the use of a date other than invoice date in determining date of sale.

Accordingly, because we have no information demonstrating that another date is more appropriate, we preliminarily based date of sale on invoice date recorded in the ordinary course of business by the involved sellers and resellers of the subject merchandise in accordance with 19 CFR 351.401(i). However, we intend to fully verify information concerning Ta Chen's claims that invoice date is the appropriate date of sale. Based on the outcome of our verification, we will determine whether it is appropriate to continue to use the date of invoice as the date of sale.

Fair Value Comparisons

To determine whether sales of subject merchandise by Ta Chen to the United States were made at below NV, we compared, where appropriate, the CEP to the NV, as described below. Pursuant to section 777A(d)(2) of the Act, we compared the CEPs of individual U.S. transactions to the monthly weighted-average NV of the foreign like product where there were sales at prices above the cost of production (''COP''), as discussed in the Cost of Production Analysis section, below.

Export Price/ Constructed Export Price

Ta Chen reported both EP and CEP sales of subject merchandise for the POR. We analyzed the record evidence on Ta Chen's sales made to the United States and preliminarily determined that all sales to the United States should be classified as CEP.

Section 772(a) of the Act defines export price as ''the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for the purchaser for exportation to the United States. * * *'' Section 772(b) of the Act defines constructed export price as ''the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the produce or exporter. * * *'' Thus, a CEP sale is distinct from an EP sale in that it is a sale or agreement to sell to an unaffiliated customer that takes place in the United States and is executed by or for the producer/exporter or by a seller affiliated with the producer/exporter, whereas a sale is classified as an EP sale where a producer or exporter sells directly to unaffiliated purchasers outside the United States.

In the instant case, all of the sales at issue were ''back-to-back'' sales; that is, Ta Chen sold pipe fittings to Ta Chen's U.S. affiliate, TCI, and then TCI sold the

pipe fittings to the unaffiliated U.S. customers at a marked-up price to account for TCI's commission and selling expenses. In addition, the record evidence demonstrates that for sales reported by Ta Chen as EP sales, the sale to the first unaffiliated customer was made between TCI and the unaffiliated customer in the United States. TCI takes title to subject merchandise, invoices the U.S. customer, and receives payment from the U.S. customer. In addition, TCI incurs seller's risk, makes agreements with commission agents, relays orders and price requests from the U.S. customer to Ta Chen, and pays for containerization expenses, U.S. customs broker charges, U.S. antidumping duties and international freight. *See* Second Supplemental Questionnaire Response (May 16, 2000) at 5. Ta Chen also stated that on occasion the U.S. customer will initiate the sale with TCI or TCI will initiate the sale with the customer. *Id.*

Based on these facts, we have determined that these sales originally reported as EP by Ta Chen meet the standard for CEP since the first sale to an unaffiliated customer occurred in the United States and was between TCI and the U.S. purchaser. Therefore, we reclassified the EP sales originally reported by Ta Chen as CEP sales.

Having determined such sales are CEP, we calculated the price of Ta Chen's United States sales based on CEP in accordance with section 772(b) of the Act. We calculated CEP based on FOB or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we deducted discounts. Also where appropriate, in accordance with section 772(d)(1), the Department deducted commissions, direct selling expenses and indirect selling expenses, including inventory carrying costs, which related to commercial activity in the United States. We also made deductions for movement expenses, which include foreign inland freight, foreign brokerage and handling, ocean freight, containerization expense, harbor construction tax, marine insurance, U.S. inland freight, U.S. brokerage and handling, and U.S. Customs duties. Finally, pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. In accordance with Department practice, we recalculated credit expenses for CEP sales by basing credit on Ta Chen's U.S. dollar-denominated short-term borrowing rate, rather than on Ta Chen's home market currency-denominated short-term borrowing rate. *See* Import Administration Policy Bulletin, Imputed Credit Expenses and Interest rates (February 23, 1998). *See* Analysis Memo at page 9.

Normal Value

After testing home market viability, as discussed below, we calculated normal value (''NV'') as noted in the ''Price-to-CV Comparisons'' and ''Price-to-Price Comparisons'' sections of this notice.

1. Home Market Viability

In accordance with section 773(a)(1)(C) of the Act, to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.,* the aggregate volume of home market sales of the foreign like product is greater than or equal to five percent of the aggregate volume of U.S. sales), we compared Ta Chen's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise. Because Ta Chen's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market was viable. We therefore based NV on home market sales.

2. Cost of Production Analysis

Because we disregarded sales below the cost of production in our last administrative review, the most-recently completed segment of this proceeding,[1] we have reasonable grounds to believe or suspect that sales by Ta Chen in its home market were made at prices below the COP, pursuant to sections 773(b)(1) and 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP analysis of home market sales by Ta Chen.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of Ta Chen's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (''G&A''), interest expenses, and packing costs. We relied on the COP data submitted by Ta Chen in its original and supplemental cost questionnaire responses. For these preliminary results, we did not make any adjustments to Ta Chen's submitted costs.

B. Test of Home Market Prices

We compared the weighted-average COP for Ta Chen to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with section 773(b)(1)(A) and (B) of the Act. On a product-specific basis, we compared the COP to home market prices, less any movement charges, discounts, and direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of Ta Chen's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of Ta Chen's sales of a given product during the POR were at prices less than the COP, we determined that such sales have been made in ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(2)(B) of the Act. In such cases, because we use POR average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales. Where all sales of a specific product were at prices below the COP, we disregarded all sales of that product.

D. Calculation of Constructed Value

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of Ta Chen's cost of materials, fabrication, G&A (including interest expenses), U.S. packing costs, direct and indirect selling expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A and profit on the amounts incurred and realized by Ta Chen in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For selling expenses, we used the actual weighted-average home market direct and indirect selling expenses.

Price-to-Price Comparisons

For those product comparisons for which there were sales at prices above the cost of production (''COP''), we

[1] *See* Stainless Steel Butt Weld Pipe Fittings from Taiwan; Final Results of the Antidumping Duty Administrative Review, 63 FR 67855 (December 9, 1998). For further discussion, *see* Stainless Steel Butt Weld Pipe Fittings from Taiwan; Preliminary Results of the Antidumping Duty Administrative Review, 63 FR 30710, 30712 (June 5, 1998).

based NV on prices to home market customers. We calculated NV based on prices to unaffiliated home market customers. Where appropriate, we deducted early payment discounts, credit expenses, and inland freight. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in CEP comparisons. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. Additionally, in accordance with section 773(a)(6) of the Act, we deducted home market packing costs and added U.S. packing costs. In accordance with the Department's practice, where there were no usable contemporaneous matches to a U.S. sale observation, we based NV on CV.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (''LOT'') as the CEP transaction. The NV LOT is that of the starting-price sales in the comparison market, or when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See* Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731, 61732 (November 19, 1997).

In reviewing the selling functions reported by the respondent, we examined all types of selling functions and activities reported in respondent's questionnaire response on LOT. In analyzing whether separate LOTs existed in this review, we found that no single selling function was sufficient to warrant a separate LOT in the home market. *See* Antidumping Duties; Countervailing Duties, Final Rule, 62 FR 27296, 27371 (May 19, 1997).

Ta Chen reported one LOT in the home market based on two channels of distribution: trading companies and end-users. We examined the reported selling functions and found that Ta Chen provides substantially the same selling functions to its home market customers regardless of channel of distribution. These selling functions include research and development and technical assistance, packing, after-sale services, and freight and delivery arrangement. We therefore preliminarily conclude that the selling functions between the reported channels of distribution are sufficiently similar to consider them as one LOT in the comparison market.

Because Ta Chen reported that all of its U.S. sales are made through a single customer category (*i.e.,* TCI acting as a distributor), Ta Chen is claiming that there is only one LOT in the U.S. market. We examined the selling functions for CEP sales, and we preliminarily agree with Ta Chen that its U.S. sales constitute a single LOT.

When we compared the LOT of the CEP to Ta Chen's home market LOT, we found that Ta Chen provided no strategic or economic planning, market research, business system development assistance, personnel-training, engineering, advertising, procurement services, inventory maintenance, or post-sale warehousing at the CEP or home market LOT. Ta Chen reported that it provided moderate-to-low technical assistance at its home market LOT, while providing none at its CEP level. Additionally, Ta Chen reported that it provided low after-sales services at its home market LOT, while providing none at its CEP level. However, our analysis of the selling functions performed by Ta Chen in both markets leads us to conclude that any differences in selling activities are not significant. Accordingly, we preliminarily find that all sales in the home market and the U.S. market were made at the same LOT. Therefore, we have not made a LOT adjustment because all price comparisons are at the same LOT and an adjustment pursuant to section 773(a)(7)(A) of the Act is not appropriate. Additionally, because we found that the LOT in the home market matched the LOT of the CEP transactions, we did not provide a CEP offset by adjusting normal value under section 773(a)(7)(B) of the Act.

Revocation

Under section 351.222(b) of the Department's regulations, the Department may partially revoke an order with respect to a company if that producer or exporter has sold the merchandise at not less than normal value for a period of at least three consecutive years. On June 30, 1999, Ta Chen, in its capacity as a Taiwanese producer and exporter of subject merchandise, requested that the Department revoke the antidumping duty order on pipe fittings from Taiwan with respect to Ta Chen. Ta Chen stated that it sold the subject merchandise at not less than normal value for a period of at least three consecutive years, including the current period under administrative review, and that it sold the subject merchandise in commercially significant quantities to the United States during each of these three years. Ta Chen also stated that it would not sell the subject merchandise at less than normal value to the United States in the future and agreed to reinstatement of the order against Ta Chen, as long as any exporter or producer is subject to the order, if the Department concludes that Ta Chen sold the subject merchandise at less than normal value, subsequent to the revocation.

On May 26, 2000, the Department requested that Ta Chen provide volume and value data on its exports and sales of subject merchandise for the three consecutive years. Ta Chen provided this data in a June 5, 2000 submission, which supported Ta Chen's statement that it sold subject merchandise in commercially significant quantities to the United States during these three years.

The three review periods on which Ta Chen is basing its request for revocation consist of: (1) the period for 6/1/96 through 5/31/97, for which the Department found a *de minimis* margin of 0.34 percent; (2) the period for 6/1/97 through 5/31/98, for which no administrative review was conducted; and (3) the period for 6/1/98 through 5/31/99, for which the Department is currently conducting an administrative review.

The Department is considering Ta Chen's request for revocation, and shall review the relevant information. Because we did not find a *de minimis* margin for these preliminary results, we preliminarily conclude that the criteria for revocation have not been satisfied, and we intend not to revoke the order as to Ta Chen, pending verification after these preliminary results.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the exchange rates in effect on the dates of the U.S. sales as published by the Federal Reserve Bank of New York. Section 773A(a) of the Act directs the Department to use a daily exchange rate in effect on the date of sale of subject merchandise in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined, as a general matter, that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. *See, e.g.*, Certain Stainless Steel Wire Rods from France: Preliminary Results of Antidumping Duty Administrative Review, 61 FR 8915, 8918 (March 6, 1996) and Policy Bulletin 96–1: Currency Conversions, 61 FR 9434, March 8, 1996. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determined a fluctuation existed, we substituted the benchmark for the daily rate.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists for the period June 1, 1998, through May 31, 1999:

CERTAIN STAINLESS STEEL BUTT-WELD PIPE FITTINGS FROM TAIWAN

Producer/manufacturer/exporter	Weighted-average margin (percent)
Ta Chen	8.03

The Department will disclose to any party to the proceeding, within five days of publication of this notice, the calculations performed (19 CFR 351.224(b)). Any interested party may request a hearing within 30 days of publication. Any hearing, if requested, will be held 37 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. Parties who submit arguments are requested to submit with the argument (1) A statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, we would appreicate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the results and for future deposits of estimated duties. For duty assessment purposes, we calculated an importer-specific assessment rate by dividing the total dumping margins calculated for the U.S. sales to the importer by the total entered value of these sales. This rate will be used for the assessment of antidumping duties on all entries of the subject merchandise by that importer during the POR.

If found that revocation is warranted for Ta Chen, it will apply to all unliquidated entries of subject merchandise produced by Ta Chen, exported to the United States and entered, or withdrawn from warehouse, for consumption on or after June 1, 1999, the first day after the period under review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Act: (1) The cash deposit rate for Ta Chen, the only reviewed company, will be that established in the final results of this review; (2) For previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) If the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established in the most recent period for the manufacturer of the merchandise; and (4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will continue to be the ''all other'' rate established in the LTFV investigation, which was 51.01 percent.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 28, 2000.

Troy H. Cribb,

Acting Assistant Secretary for Import Administration.

[FR Doc. 00–17105 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Advanced Technology Program (ATP) Advisory Committee

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Advance Technology Program Advisory Committee.

SUMMARY: NIST invites and requests nominations of individuals for appointment to the Advanced Technology Program Advisory Committee. NIST will consider nominations received in response to this notice for appointment to the Committee, in additional to nominations already received.

DATES: Please submit nominations on or before July 21, 2000.

ADDRESSES: Please submit nominations to Dr. Brian C. Belander, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1004, Gaithersburg, MD 20899–1004. Nominations may also be submitted via FAX to 301–948–1224.

Additional information regarding the Committee, including its charter and current membership list may be found on its electronic home page at: http://www.atp.nist.gov/atp/adv_com/ac_menu.htm.

FOR FURTHER INFORMATION CONTACT: Dr. Brian C. Belanger, National Institute of

Standards and Technology, 100 Bureau Drive, Mail Stop 1004, Gaithersburg, MD 20899–1004; telephone 301–975–4720, fax 301–948–1224; or via email at brian.belanger@nist.gov.

SUPPLEMENTARY INFORMATION: The Committee will advise the Director of the National Institute of Standards and Technology (NIST) on ATP programs, plans, and policies.

The Committee will consist of not fewer than six nor more than twelve members appointed by the Director of NIST and its membership will be balanced to reflect the wide diversity of technical disciplines and industrial sectors represented in ATP projects.

The Committee will function solely as an advisory body, in compliance with the provisions of the Federal Advisory Committee Act.

Authority: Federal Advisory Committee Act: 5 U.S.C. App. 2 and General Services Administration Rule: 41 CFR Subpart 101–6.10.

Dated: June 26, 2000.

Karen H. Brown,

Deputy Director.

[FR Doc. 00–16987 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 00609171–0171–01]

RIN 0693–ZA38

Manufacturing Extension Partnership Program

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice of availability of funds.

SUMMARY: The National Institute of Standards and Technology invites proposals from qualified organizations for funding projects to provide manufacturing extension services to small- and medium-size manufacturers in the United States. These projects correspond to the Manufacturing Technology Centers component of the Manufacturing Extension Partnership (MEP). This competition is for the expansion of manufacturing extension service capacity within 2 discrete geographic areas in the United States. The first area encompasses the entirety of the state of Indiana. The second area encompasses 17 counties in the Southeast Ohio area; Athens, Delaware, Fairfield, Fayette, Franklin, Hocking, Licking, Logan, Madison, Meigs, Monroe, Morgan, Noble, Perry, Pickaway, Union, and Washington. The competition is open to all organizations meeting the eligibility requirements provided herein. This includes existing MEP manufacturing extension centers.

Manufacturing extension centers must be affiliated with a U.S.-based not-for-profit institution or organization. MEP interprets not-for-profit organizations to include universities and state and local governments. Applicants are required to provide 50% or more of the operating cost for providing these manufacturing extension services in year 1 through 3 and an increasing percentage in year 4, and in year 5 and beyond.

DATES: Proposals from qualified applicants must be received at the address below by no later than 5 p.m. Eastern Standard Time (September 5, 200). Selection of awards will be made in September 2000.

ADDRESSES: Applicants must submit one signed original and three (3) copies of their proposal along with a Standard Form 424, 424–A, and 424–B (Rev 7/97), Form CD–511 (Rev 7/91), and Form CD–346 to the National Institute of Standards and Technology, Manufacturing Extension Partnership, 100 Bureau Drive, Stop 4800, Building 301, Room C100, Gaithersburg, MD 20899–4800. Plainly mark on the outside of the package it contains a manufacturing extension center proposal.

FOR FURTHER INFORMATION CONTACT: For information regarding this announcement, contact Margaret Phillips of the Manufacturing Extension Partnership by calling (301) 975–5020; or by mailing information requests to the National Institute of Standards and Technology, Manufacturing Extension Partnership, 100 Bureau Drive, Stop 4800, Building 301, Room C100, Gaithersburg, MD 20899–4800. Information packets, which include background materials on MEP, existing centers and the necessary application forms, should be requested via a one page fax sent to (301) 963–6556. Please include name, organization, mailing address, telephone number, and fax number on this request. Information is also available on-line at www.mep.nist.gov.

SUPPLEMENTARY INFORMATION: Catalog of Federal Domestic Assistance Name and Number: The catalog number for the award of Manufacturing Technology Centers funds in the Catalog of Federal Domestic Assistance is 11.611

Background

In accordance with the provisions of Section 5121 of the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418), codified in 15 U.S.C. 278k, and final rule 15 CFR 290 published September 17, 1990 and amendment published May 2, 1994, NIST will provide assistance for the creation and support of manufacturing extension centers. The objective of these centers is to enhance productivity, technological performance, and strengthen the global competitiveness of small- and medium-sized U.S.-based manufacturing firms.

These manufacturing extension centers will become part of the MEP national system of extension service providers. Currently, the MEP national system consists of over 400 centers and field offices located throughout the United States and Puerto Rico. Information regarding MEP and these centers is provided in the information packet that can be obtained as explained above or on-line at *www.mep.nist.gov.*

Funding Availability

It is anticipated that approximately $1,500,000 will be available to support manufacturing extension centers under this program. The funding level for individual awards is not prescribed. The funding requested by the applicant should be directly related to the level of activity of the center, which is a function of the number of manufacturers in the designated service region, and to the availability of applicant-provided cash and in-kind contributions to be used as cost share.

Invitation for Proposals

Proposals must be received at the address listed above by September 5, 2000.

Award Period

The projects awarded under this program will have a budget and performance period of one year. These projects may be renewable on an annual basis subject to the review requirements described in 15 CFR 290.8, but only if additional funding is allocated to this program by Congress beyond Federal fiscal year 2000. Renewal of these projects shall be at the sole discretion of NIST and shall be based upon satisfactory performance, priority of the need for the service, existing legislative authority, and availability of funds. Although the MEP regulation (15 CFR Part 290) indicates that Centers are not eligible for MEP funding after six years, this requirement is no longer in effect. Public Law 105–239 amended the MEP's organic legislation to authorize MEP to fund Centers for more that six years under specified circumstances.

Cost Share Requirements

A cost sharing contribution from the applicant is required. The applicant

must provide 50% or more of the total capital, operating and maintenance costs for the center for years 1 through 3. The applicant's cost share requirement increases to 60% or more in year 4 and 66⅔% or more in years 5 and beyond. The applicant's share of the center expenses may include cash and in-kind contributions. However, at least 50% of the applicant's total cost share (cash plus in-kind) must be in cash. The source of the cost share, both cash and in-kind, must be documented in the budget submitted in the proposal.

In all cases, a contribution will only be treated as cash cost share if the center director has suitable authority and discretion to control its expenditure. Acceptable cash cost share, which must come from non-federal sources, includes'':

—Dollar contributions from state, county, city, industrial or other sources
—Income from fees charged for services performed
—Revenue from licensing, royalties, dividends, and capital gains
—Contributions of full-time personnel from other organizations
—Other contributions as approved by NIST

To qualify as in-kind cost share, the claimed items must be directly related to the tasks to be accomplished and must be utilized solely for the center activities or the cost share must be prorated based upon the percentage of time they are used for these activities. Acceptable in-kind cost share includes:

—Contributions of full-time personnel for which the center director lacks suitable authority and discretion to qualify as cash cost share
—Contributions of part-time personnel from other organizations
—Contributions of equipment, software, rental value of office, laboratory or other space
—Other contributions as approved by NIST

In addition, recipients are required to comply with the regulations found at 15 CFR 14.23.

Proposal Content

The proposal must, at a minimum, include the following:

A. An executive summary of the proposed project, consistent with the Evaluation Criteria stated in this notice.

B. A description of the proposed project, sufficient to permit evaluation of the proposal, in accordance with the proposal Evaluation Criteria stated in this notice.

C. A detailed budget for the proposed project which breaks out all expenses for year 1 of operation and identifies all sources of funds to pay these expenses.

D. A budget outline for annual costs and sources of funds for potential years 2 through 5 and beyond. It is expected, especially for newly created centers, that year one costs are lower because of a ramp-up of operations from start-up to the point where the center is fully operational and services are being provided. If such a ramp-up of operations is to occur, this should be reflected in the budget outline for years 2 through 5 and beyond. A detailed budget and budget narrative will be required prior to each of years 2 through 5.

E. A description of the qualifications of key personnel who will be assigned to work on the proposed project.

F. A statement of work that discusses the specific tasks to be carried out, including a schedule of measurable events and milestones.

G. A Standard Form 424, 424–A, and 424–B (Rev 7/97) prescribed by 15 CFR 14 (OMB Circular A–110), Form CD–511, Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying, and Form CD–346, Applicant For funding Assistance/Name Check. The 424 and CD series of forms will not be considered part of the page count of the proposal.

In addition, the proposal must contain the requirements identified in 15 CFR 290.5(a)(3), which are:

A. A plan for the allocation of intellectual property rights associated with any invention or copyright which may result from the involvement in the Center's technology transfer or research activities consistent with the conditions of 15 CFR 290.9.

B. A statement which provides adequate assurances that the host organization will contribute the required cost share, 50 percent or more of the proposed Center's capital and annual operating and maintenance costs for the first three years and an increasing share for each of the following three additional years. (Although the MEP regulation, 15 CFR 290.5(a)(3)(ii), states that applicants should provide evidence that the proposed Center will be self-supporting after six years, this requirement is no longer in effect, as indicated above.)

C. A statement describing linkages to industry, government, and educational organizations within its service region.

D. A statement defining the initial service region including a statement of the constituency to be served and the level of service to be provided, as well as outyear plans.

E. A statement agreeing to focus the mission of the Center on technology transfer activities and not to exclude companies based on state boundaries.

F. A proposed plan for the annual evaluation of the success of the Center by the Program, including appropriate criteria for consideration, and weighting of those criteria.

G. A plan to focus the Center's technology emphasis on areas consistent with NIST technology research programs and organizational expertise.

H. A description of the planned Center sufficient to permit NIST to evaluate the proposal in accordance with section 290.6 of the MEP regulations.

Proposal Format

The proposal must not exceed 25 typewritten pages in length. The proposal must contain both technical and cost information. The proposal page count shall include every page, including pages that contain words, table of contents, executive summary, management information and qualifications, resumes, figures, tables, and pictures. All proposals shall be printed such that pages are single-sided, with no more than fifty-five (55) lines per page. Use 21.6 x 27.9 cm (8½″ x 11″) paper or A4 metric paper. Use an easy-to-read font of not more than about 5 characters per cm (fixed pitch font of 12 or fewer characters per inch or proportional font of point size 10 or larger). Smaller type may be used in figures and tables, but must be clearly legible. margins on all sides (top, bottom, left and right) must be at least 2.5 cm. (1″). The applicant may submit a separately bound document of appendices containing other supporting information. The proposal should be self-contained and not rely on the appendices for meeting criteria. Excess pages in the proposal will not be considered in the evaluation. Applicants must submit one signed original plus three (3) copies of the proposal.

Manufacturing Extension Centers

a. Project Objective

The objective of the projects funded under this program is to provide manufacturing extension services to small- and medium-sized manufacturers in the United States. These services are provided through the coordinated efforts of a regionally-based manufacturing extension center and local technology resources. The management and operational structure of the manufacturing extension center is not prescribed, but should be based

upon the characteristics of the manufacturers in the region and locally available resources. The center should include plans for integration into the MEP national system and linkages to appropriate national resources.

The focus of the center is to provide those manufacturing extension services required by the small- and medium-sized manufacturers in their service region using the most cost effective sources for those services. It is not the intent of the is program that centers perform research and development.

b. Evaluation Criteria

All qualified proposals will be evaluated and rated on the basis of the following criteria by an impartial review panel. Each proposal should address all four evaluation criteria, which are assigned equal weighting.

(1) *Identification of Target Firms in Proposed Regions.* Does the proposal define an appropriate service region with a large enough population of target firms of small- and medium-sized manufacturers that the applicant understands and can serve, and which is not presently served by an existing center?

(i) Market Analysis. Demonstrated understanding of the service region's manufacturing base, including business size, industry types, product mix, and technology requirements.

(ii) Geographical Location. Physical size, concentration of industry, and economic significance of the service region's manufacturing base. Geographical diversity of the centers will be a factor in evaluation of proposals; a proposal for a center located near an existing center may be considered only if the proposal is unusually strong and the population of manufacturers and the technology to be addressed justify it.

(2) *Technology Resources.* Does the proposal assure strength in technical personnel and programmatic resources, full-time staff, facilities, equipment, and linkages to external sources of technology?

(3) *Technology Delivery Mechanisms.* Does the proposal clearly and sharply define an effective methodology for delivering advanced manufacturing technology to small- and medium-sized manufacturers?

(i) Linkages. Development of effective partnerships or linkages to third parties such as industry, universities, nonprofit economic organizations, and state governments who will amplify the center's technology delivery to reach a large number of clients in its service region.

(ii) Program Leverage. Provision of an effective strategy to amplify the center's technology delivery approaches to achieve the proposed objectives as described in 15 CFR 290.3(e).

(4) *Management and Financial Plan.* Does the proposal define a management structure and assure management personnel to carry out development and operation of an effective center?

(i) Organizational Structure. Completeness and appropriateness of the organizational structure, and its focus on the mission of the center. Assurance of full-time top management of the center.

(ii) Program Management. Effectiveness of the planned methodology of program management.

(iii) Internal Evaluation. Effectiveness of the planned continuous internal evaluation of program activities.

(iv) Plans for Financial Matching. Demonstrated stability and duration of the applicants funding commitments as well as the percentage of operating and capital costs guaranteed by the applicant. Identification of matching fund sources and the general terms of the funding commitments.

(v) Budget. Suitability and focus of the applicant's detailed one-year budget and budget outline for years 2–5 and beyond.

Eligibility Criteria

- Eligible applicants for these projects must be affiliated with a non-profit institution or organization and may be consortia of non-profits institutions.
- The applicant must provide the necessary cost share as specified above.

Proposal Selection Process

Proposal evaluation and selection will consist of four principal phases: proposal qualification, proposal review, site visits and award determination.

a. Proposal Qualification

All proposals will be reviewed by NIST to assure compliance with the proposal content as described in 15 CFR 290.5 and other basic provisions of this notice. Proposals that satisfy these requirements will be designated as qualified proposals. Non-qualified proposals will not be evaluated and will be returned to the applicant.

b. Proposal Review

NIST will appoint an evaluation panel, consisting of one non-Federal Government employee and at least two Federal Government employees, to conduct an independent and objective review and evaluation of all qualified proposals in accordance with the evaluation criteria set forth in this notice. Based upon this review, the panel will deliberate, and each panelist will rank the proposals based on the scores in relation to the evaluation criteria, as a basis for selecting a group of finalists to be site visited.

c. Site Visits

Finalists will be notified and a day, time, and location for a site visit will be established. The panel will review finalists again on site, based on the evaluation criteria. Subsequently, the panel will deliberate again, and each panelist will rank the proposals again by assigning numeric scores based on the evaluation criteria, assessing equal weight to each of the four criteria. Based upon this rank scores, the panel will submit recommendations to the Director of NIST, or a designee, for final award recommendation to the NIST Grants Officer.

d. Award Determination

The Director of NIST, or a designee, shall make final recommendation of whether an award should be made to the proposing organization based on a review of the panel's adherence to program objectives and program procedures. The final approval of the selected applications and award of cooperative agreements will be made by the NIST Grants Officer based on compliance with program requirements and whether the recommended applicants appear competently managed, responsible, and committed to achieving project objectives. The decision of the Grants Officer is final.

Paperwork Reduction Act

The Standard Form 424 and other Standard Forms in this application kit are subject to the Paperwork Reduction Act and have been approved by OMB under Control Numbers 0348–0043, 0348–0044, 0038–0040, and 0348–0046. Proposals are subject to the requirements of the Paperwork Reduction Act and have been approved by OMB under Control Number 0693–0032.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Additional Requirements

(a) Federal Policies and Procedures. Recipients and sub-recipients are subject to all Federal laws and Federal and NIST policies, regulations, and procedures applicable to Federal

financial assistance awards, including 15 CFR Part 14, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and commercial Organizations.

(b) Indirect Costs. Regardless of any approved indirect cost rate applicable to the award, the maximum amount of the indirect costs for which DOC will reimburse the recipient shall be the lesser of:

(1) The Federal share of the total allocable indirect costs of based on the negotiated rate with the cognizant Federal agency as established by audit or negotiation; or

(2) The line item amount for the Federal share of indirect costs dollar contained in the approved budget of the award.

(c) Pre-award Activities. Applicants (or their institutions) who incur any costs prior to an award being made do so solely at their own risk of not being reimbursed by the Government.

Notwithstanding any verbal assurance that may have been received, there is no obligation on the part of NIST to cover pre-award costs.

(d) Delinquent Federal Debts. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(1) The delinquent account is paid in full;

(2) A negotiated repayment schedule is established and at least one payment is received; or

(3) Other arrangements satisfactory to NIST are made.

(e) Past Performance. Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(f) Name Check Review. All non-profit applicants will be subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity. Form CD–346 must be completed for all personnel with key programmatic or fiduciary responsibilities.

(g) Primary Applicant Certification. All primary applicants must submit a completed Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and the following explanations must be provided.

(1) *Non Procurement Debarment and Suspension.* Prospective participants (as defined at 15 CFR Part 26, Section 105) are subject to 15 CFR Part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

(2) *Drug-free Workplace.* Recipients (as defined at 15 CFR Part 26, Section 605) are subject to 15 CFR Part 26, Subpart F, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

(3) *Anti-lobbying.* Persons (as defined at 15 CFR Part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and load guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

(4) *Anti-lobbying Disclosures.* Any application that has paid or will pay for lobbying using any funds must submit as SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR Part 28, Appendix B.

(h) Lower Tier Certifications. Recipients shall require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to NIST. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to NIST in accordance with the instructions contained in the award document.

(i) False Statements. A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

(j) Purchase of American-made Equipment and Products. Applicants are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with the funding provided under this program.

(k) North American Free Trade Agreement Patent Notification Procedure. Pursuant to Executive Order 12889, the Department of Commerce (DoC) is required to notify the owner any valid patent covering technology whenever the DoC or its financial assistance recipient, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. Applicants selected for awards under this program are required to comply with this executive order.

(() intergovernmental Review. Applicants under this program are not subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs''.

(m) No Obligation for Future Funding. If an application is accepted for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion on NIST.

Program Execution

(a) Type of Funding Instrument. The formal agreement between NIST and the applicant will be in the form of a cooperative agreement. Under this agreement, the NIST MEP will have substantial interactions with the applicant in planning and executing this project. This will include the following:

—Assistant in developing required plans
—Providing access to standard manufacturing extension and related tools
—Facilitating partnering with appropriate organizations both within and outside of the MEP national system
—Defining measures for evaluation of performance
—Direct involvement in helping to understanding, define, and resolve problems in the center's operations

(b) Operating Plan. All recipients of awards are required to submit an Operating Plan within ninety (90) days of the project start date. The Operating Plan is a more detailed statement of work based on project objectives and activities the applicant will undertake to achieve the objectives and incorporates recommendations provided by the evaluation panel and the NIST Program Officer. The Operating Plan must be reviewed and approved by NIST and will be incorporated into the cooperative agreement by amendment. Operating Plan guideline will be distributed to award recipients.

(c) Project Reporting. Quarterly reports will be submitted to the NIST Program Officer no later than thirty (30) days after the end of each quarter of the award year. The information provided is used to characterize the projects, develop detailed case studies, and evaluate individual examples of outcomes. Quarterly reporting instructions will be distributed to award recipients.

Executive Order Statement

This funding notice was determined to be ''not significant'' for purposes of Executive Order 12866.

Dated: June 29, 2000.

Raymond G. Kammer,

Director.

[FR Doc. 00–17085 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 052400C]

Endangered and Threatened Species; Notice of Availability for the Draft Recovery Plan for Johnson's Seagrass

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of a draft recovery plan; request for comments; correction.

SUMMARY: In the notice of availability of the draft recovery plan for Johnson's seagrass, published on June 26, 2000, the mailing address for comments was inadvertently omitted. Also, the notice did not include a web site address for accessing the draft recovery plan. This document corrects the notice of availability.

DATES: Comments on the draft recovery plan must be received no later than 5 p.m., Eastern standard time, on August 25, 2000.

ADDRESSES: Written comments on the draft recovery plan should be addressed to Mr. Charles Oravetz, Assistant Regional Administrator, Protected Resources Division, NMFS, Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, Florida 33702–2432. In addition to being available from Layne Bolen, Protected Resources Division, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702–2439; the draft plan can also be downloaded from the following site: *http://www.nmfs.gov/prot_res/other/jsrecover.pdf.* Comments may be sent via facsimile (fax) to 727–570–5517, but they will not be accepted if submitted via e-mail or Internet.

FOR FURTHER INFORMATION CONTACT: Layne Bolen at 850–234–6541 ext 237, Dr. Judson Kenworthy at 252–728–8750, or Marta Nammack at 301–713–1401 ext 116, or send a request via electronic mail to jsg.info@noaa.gov.

SUPPLEMENTARY INFORMATION:

Need for Correction

In the notice of availability of the draft recovery plan for Johnson's seagrass, published on June 26, 2000 (65 FR 39369), the mailing address for comments was inadvertently omitted. Also, the notice did not include a web site address for accessing the draft recovery plan. This document provides this information (see **ADDRESSES**).

Authority: 16 U.S.C. 1531–1543 *et seq.*

Dated: June 29, 2000.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 00–17113 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062900C]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of committee meeting.

SUMMARY: The North Pacific Fishery Management Council's (NPFMC) Observer Committee will meet in Seattle, WA.

DATES: The meeting will be held on July 24–25, 2000.

ADDRESSES: The meeting will be held at the Alaska Fisheries Science Center, 7600 Sand Point Way NE, Bldg. 4, Room 1055, Seattle, WA.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Chris Oliver, NPFMC, 907–271–2809.

SUPPLEMENTARY INFORMATION: The meeting will begin at 9:00 a.m. on Monday, July 24, and continue until business for the day is completed. The meeting will reconvene on Tuesday, July 25, at 9:00 a.m.

The committee's agenda includes the following issues:

1. Review and discuss information on:

A. General observer needs by week;

B. Foreign observer program model; and

C. Updated estimates of observer costs, exvessel value, and potential fee percentage.

2. Review and discuss findings of an independent review of the North Pacific groundfish observer program prepared by MRAG Americas.

3. Discuss baseline program goals and objectives.

4. Discuss and identify major program alternatives

5. Discuss and resolve appropriate wording for Magnuson-Stevens Act reauthorization.

6. Identify additional information needs.

Although non-emergency issues not contained in this agenda may come before this committee for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: June 29, 2000.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–17111 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–22–F

UNITED STATES PATENT AND TRADEMARK OFFICE

Submission for OMB Review; Comment Request

The United States Patent and Trademark Office (USPTO) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: United States Patent and Trademark Office (USPTO).

Title: Invention Promoters/Promotion Firms Complaints.

Form Number(s): PTO/SB/2048.

Agency Approval Number: 0651–0044.

Type of Request: Revision of a collection previously approved under an emergency clearance.

Burden: 50 hours annually.

Number of Respondents: 200 responses per year. The PTO expects to receive 100 complaints concerning invention promoters/promotion firms and 100 responses to such complaints.

Avg. Hours Per Response: The USPTO estimates that it takes an average of 15 minutes (.25 hours) to gather the information, complete the complaint, and submit it to the USPTO. The USPTO estimates that it will take an invention promoter an average of 15 minutes (.25 hours) to gather the information, complete the response, and submit it to the USPTO.

Needs and Uses: The Inventors' Rights Act of 1999 requires the USPTO to publish complaints filed by independent inventors against invention promoters/promotion firms and publish any replies to such complaints. The Inventors' Rights Act requires the USPTO to publish these complaints and replies, but it does not require the USPTO to enforce the Act, to investigate the complaints, or to participate in any legal proceedings against the invention promoters/promotion firms. The USPTO has developed a form that complainants may choose to use to submit their complaints against an invention promoter/promotion firm to the USPTO. Use of this form, PTO/SB/2048 Complaint Regarding Invention Promoter, is not mandatory; however, its use will ensure that all of the necessary information is provided, which in turn enables the USPTO to make the complaint publicly available. At this time, there is no associated form for responses to the complaints. In addition, this information collection enables the invention promoters/promotion firms to respond to such complaints. The USPTO uses the complaint form to ensure that all of the necessary information is provided so that the complaints can be made publicly available. The USPTO then forwards the complaints to the invention promoter/ promotion firm and makes sure that any responses to these complaints are also made publicly available.

Affected Public: Individuals or households, businesses or other for-profit, not-for-profit institutions, and farms.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Thao P. Nguyen, Acting Records Officer, Office of Data Management, Data Administration Division, (703) 308–7397, USPTO, Suite 310, 2231 Crystal Drive, Washington, DC 20231.

Written comments and recommendations for the proposed information collection should be sent on or before August 7, 2000, to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: June 29, 2000.

Thao P. Nguyen,

Acting Records Officer, USPTO, Office of Data Management, Data Administration Division.

[FR Doc. 00–17029 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

RIN 0651–ABXX

Notice of Intellectual Property Symposium of the Americas: Protecting Intellectual Property in the Digital Age

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of meeting.

SUMMARY: The United States Patent and Trademark Office (USPTO) is announcing that it will hold a two-day symposium on the enforcement of intellectual property in the Western Hemisphere. The symposium is expected to provide an opportunity for high-ranking government intellectual property officials and members of the business and intellectual property communities in the Western Hemisphere to discuss and formulate an agenda for cooperation in the critical area of intellectual property enforcement. Particular attention during the symposium will be paid to the Internet, Optical Media Piracy, and Business Software and Business Methods Patent enforcement issues, and to developing a basis for closer Hemispheric coordination in the enforcement of intellectual property rights generally.

DATES: The symposium will be held on Monday, September 11, 2000, and Tuesday, September 12, 2000, beginning at 9:30 a.m. and ending at approximately 5:30 p.m. each day. Due to security concerns, attendance at the symposium will be limited to 150 people. Requests to attend the symposium must be made in writing no later than July 31, 2000, and must comply with the requirements set forth in this notice. Because seating is limited, only one request to participate per firm, agency or organization will be granted. For purposes of determining eligibility, affiliates and subsidiaries in different countries will be considered separate organizations.

ADDRESSES: The symposium will be held at the Sheraton Crystal City Hotel, 1800 Jefferson Davis Highway, Arlington, Virginia 22202. Directions to the symposium location will be available inside the lobby of the Sheraton Crystal City.

Requests to attend the symposium should be made to Doris Long by electronic mail to *soa2k@uspto.gov*, by facsimile transmission marked to the attention of Doris Long at (877) 786–4220, or by mail marked to the attention of Doris Long and addressed to the Office of Legislative and International Affairs, United States Patent and Trademark Office, Box 4, Washington, DC 20231. Symposium attendees will be accepted as their requests are received on a first-come, first-serve basis according to the time and date of receipt of each request, and subject to the restrictions that: (1) Only written requests will be accepted; (2) only one request (one person) per company, firm, agency or organization will be accepted (for purposes of determining eligibility, affiliates and subsidiaries in different countries will be considered separate organizations); (3) only requests which contain the information set forth below under ''Further Registration Information'' will be accepted; and (4) only requests received on or before July 31, 2000, will be considered.

FOR FURTHER INFORMATION CONTACT: Doris Long by telephone at (877) 786–4220; by electronic mail to *soa2k@uspto.gov*; by fax at (877) 786–4220; or by mail marked to her attention and addressed to the Office of Legislative and International Affairs, United States Patent and Trademark Office, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

1. Background

Over the past several decades, the global economy has undergone a fundamental change, where the principal engine of economic growth and job creation is not based on raw natural resources, but on the use of knowledge, ideas and innovation. From the Internet and E-commerce, to

computer software and technology, countries increasingly rely on knowledge-based products and services to fuel their economic and technological growth. Intellectual property protection forms an integral part of any knowledge-based economy, since intellectual property laws traditionally serve as a source of protection for knowledge, ideas and innovation. At the same time, the rights of intellectual property owners are being increasingly threatened by the widespread use of the Internet and other digital technologies in facilitating global piracy.

As of January 1, 2000, most countries in the Western Hemisphere are obligated to have domestic laws and enforcement mechanisms that comply with the international standards set forth under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In order to assure continuing growth for the countries of the Western Hemisphere, enforcement mechanisms must be designed to take into account the needs and issues of a knowledge-based economy and be built on traditional methodologies for enforcement of intellectual property rights against infringing physical goods and services. At the same time such mechanisms must be designed to combat the increasing use of the Internet and other digital technologies in the development and distribution of pirated and counterfeit goods.

In light of the Hemispheric importance of effective intellectual property enforcement programs capable of dealing with the challenges posed by digital piracy, this symposium will feature structured dialogues and round-table discussions regarding cutting edge intellectual property enforcement policy issues. These discussions will occur between high-level government officials from every country in the Western Hemisphere with which the United States maintains diplomatic relations.

The goals of the symposium are:

A. To assist government officials from the Western Hemisphere in developing effective enforcement systems based on an interdisciplinary approach in which civil, criminal, administrative, and border (customs) measures work together and separately to aid in protecting and enforcing intellectual property rights in the Digital Age.

B. To strengthen regional cooperation for the improvement of the enforcement of intellectual property rights in order to meet international treaty obligations, including those under TRIPS.

C. To provide Western Hemisphere countries with a detailed review of the emerging intellectual property treaty regimes of the Digital Age. Included among the topics would be the WIPO Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the enforcement requirements of TRIPS and NAFTA.

D. To discuss ways to generally improve the enforcement of intellectual property rights throughout the Hemisphere.

2. Draft Agenda

A draft agenda for the symposium is set forth below:

Intellectual Property Symposium of The Americas: Protecting Intellectual Property in The Digital Age

Monday, September 11

Plenary Round Table I

E-Commerce and Other Strategies For Turning Intellectual Property Protection into Investment Opportunities.

Break Out Round Table A

Intellectual Property Rights and the Internet: Digital Distribution and the Technological Threat to Intellectual Property.

Break Out Round Table B

Establishing a Workable Enforcement System under TRIPS: Practical Problems and Potential Solutions.

Break Out Round Table C

Adapting ''Hard'' Goods Enforcement Techniques to Cyberspace.

Break Out Round Table D

Legal and Technological Obstacles to Protecting Intellectual Property in the Digital Age: Practical Problems and Realistic Solution.

Break Out Round Table E

Prevention v. Cure: Creating Effective Educational and Public Awareness Enforcement Campaigns.

Break Out Round Table F

Creating an Effective Enforcement Program With Limited Resources: Some Models for Facilitating Information and Resource Sharing.

Break Out Round Table G

Resolving Domain Name Problems in Cyberspace.

Break Out Round Table H

Copyright and the WIPO Treaties: Protecting Content on the Internet.

Tuesday, September 12

Plenary Round Table II

Technology Transfers, Business Method Patents and the Pitfalls of Licensing.

Break Out Round Table J

Creating an Effective Enforcement Program for New Technologies: Protecting Trade Secrets and Technology Patents.

Break Out Round Table K

Trademark Counterfeiting and the Net: Enforcing Rights on the Internet Frontier.

Plenary Round Table III

Future Issues in Intellectual Property Enforcement: Technology Patents and Confidential Information.

Plenary Round Table IV

An Action Plan for the Future: A Dialogue Among the Participants on Future Problems and Solutions.

3. Further Registration Information

This symposium, and all program-related materials, are offered free of charge. As noted above, due to security concerns, admission to the symposium will be limited to 150 participants who are pre-registered and whose registration has been accepted in accordance with the following guidelines:

1. Requests to attend the symposium should be made to Doris Long by electronic mail to *soa2k@uspto.gov*, by facsimile transmission marked to the attention of Doris Long at (877) 786–4220, or by mail marked to the attention of Doris Long and addressed to the Office of Legislative and International Affairs, United States Patent and Trademark Office, Box 4, Washington, DC 20231.

2. All requests to attend must be in writing and must contain the following information:

A. Name;

B. Company/ Firm/Agency or Organization Affiliation (if any);

C. Mailing Address;

D. Facsimile, or Email Address where notification of acceptance of registration can be sent.

3. Symposium attendees will be accepted as their requests are received on a first-come, first-serve basis according to the time and date of receipt of each request. To be considered ''received,'' a request to attend must contain all of the information required in this section; and must be received on or before the July 3, 2000, application deadline.

4. Only one request (one person) per company, firm, agency or organization will be accepted. For purposes of determining eligibility, affiliates and subsidiaries in different countries will be considered separate organizations.

5. It would be helpful for purposes of determining space needs, but is not required, if the applicant would also indicate which Break Out sessions he or she intends to attend. For convenience, a registration form has been placed on the USPTO web-site at www.uspto.gov.

Dated: June 29, 2000.

Q. Todd Dickinson,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 00–17030 Filed 7–5–00; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Notice of Statement of Commission Policy Regarding the Listing of New Futures and Option Contracts by Foreign Boards of Trade That Have Received Staff No-Action Relief To Place Electronic Trading Devices in the United States

AGENCY: Commodity Futures Trading Commission.

ACTION: Statement of policy.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') has issued a Statement of Policy in which it expresses the view that foreign boards of trade that have placed automated trading systems in the U.S. pursuant to a Commission staff no-action letter shall be permitted to list certain additional futures and option contracts without obtaining supplemental no-action relief, subject to specified filing and certification requirements.

EFFECTIVE DATE: This Statement of Policy is effective immediately.

FOR FURTHER INFORMATION CONTACT: Jocelyn B. Brone, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street, NW, Washington, DC 20581. Telephone: (202) 418–5450.

SUPPLEMENTARY INFORMATION: On June 2, 1999, the Commodity Futures Trading Commission (''Commission'') issued an order which, among other things, withdrew proposed rules that would have governed automated access to foreign boards of trade (''June 2 Order'').[1] The June 2 Order also instructed the Commission staff to ''begin immediately processing no-action requests from foreign boards of trade seeking to place trading terminals in the United States, and to issue responses where appropriate, pursuant to the general guidelines included in the Eurex (DTB) no-action process,[2] or other guidelines established by the Commission. * * * ''[3] In accordance with these instructions, Commission staff has issued seven no-action letters that permit foreign boards of trade to place in the U.S. electronic trading devices that provide access to those boards of trade, without obtaining contract market designation (''Foreign Trading System No-Action Letters'').[4] The relief is subject to the terms and conditions set forth in each no-action letter and applies exclusively to the futures and option contracts delineated therein. Foreign boards of trade that wish to list additional futures and option contracts for trading through their U.S.-located trading systems are require to request and receive supplemental no-action relief (''Supplemental Relief'') from Commission staff prior to doing so. To date, Commission staff has granted two requests for Supplemental Relief.[5]

Almost one year has passed since the first Foreign Trading System No-Action Letter was issued.[6] In that time, Commission staff has not learned of any significant problems or concerns regarding the operation of U.S.-located foreign trading systems nor has Commission staff learned that foreign boards of trade are listing impermissible products through such systems. Also within the past year, the Commission has promulgated Rule 5.3 which generally permits domestic boards of trade to list new futures and option contracts for trading without acquiring Commission approval of such contracts or their respective terms and conditions.[7] In light of Commission staff's successful experience with the relief provided by the Foreign Trading System No-Action Letters and in consideration of the relief provided to domestic boards of trade via Rule 5.3, the Commission believes that it is appropriate to permit foreign boards of trade that are operating electronic trading devices in the U.S. pursuant to Commission staff no-action relief to be permitted to list certain new futures and option contracts for trading through those devices, without requiring additional regulatory action. Accordingly, it has issued the following Statement of Policy setting forth this view.

[1] Access to Automated Boards of Trade, 64 FR 32829 (June 18, 1999).

[2] In February 1996, Commission staff issued no-action relief to Deutsche Termibourse (''DTB''), an automated international futures and options exchange headquartered in Frankfurt, German, that permitted DTB, subject to certain terms and conditions, to place computer terminals in the U.S. offices of its members for principal trading. See CFTC Interpretative Letter No. 96–28 (1996–1997 Transfer Binder) Comm. Fut. L. Rep. (CCH) ¶ 26,669 (Feb. 20. 1996.) In June 1998, DTB changed its name to Eurex Deutschland.

[3] Access to Automated Boards of Trade, 64 FR 32829 (June 18, 1999).

[4] Commission staff has issued Foreign Trading System No-Action Letters to Eurex Deutschland; the Hong Kong Futures Exchange Ltd.; the International Petroleum Exchange of London Limited; LIFFE Administration and Management (''LIFFE''); Parisbourse SBF SA; the Singapore Exchange Ltd. (formerly known as the Singapore International Monetary Exchange); and, collectively, the Sydney Futures Exchange Limited and the New Zealand Futures and Options Exchange Limited. The text of these letters may be accessed through the Commission's website, located at *www.cftc.gov*. See Letter from I. Michael Greenberger, Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Edward J. Rosen, Esq., Cleary, Gottlieb, Steen & Hamilton (Aug. 10, 1999); Letter from John C. Lawton, Acting Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Philip McBride Johnson, Esq., Skadden, Arps, Slate, Meagher & Flom LLP (June 9, 2000); Letter from John C. Lawton, Acting Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Arthur W. Han, Esq., Katten Muchin & Zavis (Nov. 12, 1999); Letter from I. Michael Greenberger, Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Arthur W. Hahn, Esq., Katten Muchin & Zavis (July 23, 1999); Letter from I. Michael Greenberger, Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Catherine Langlais, Senior Vice President, Parisbourse SBF SA (Aug. 10, 1999); Letter from John C. Lawton, Acting Director, Division Trading and Markets, Commodity Futures Trading Commission to Jane Kang Thorpe, Esq., Brown & Wood LLP (Dec. 17, 1999); Letter from I. Michael Greenberger, Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Philip McBride Johnson, Esq., Skadden, Arps, Slate, Meagher & Flom (Aug. 10, 1999).

[5] Commission staff has granted two separate requests from LIFFE to list additional futures and option contracts through LIFFE CONNECT ™, its automated trading and order matching system. See Letter from John C. Lawton, Acting Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Arthur W. Han, Esq., Katten Muchin & Zavis (Dec. 10, 1999) and Letter from John C. Lawton, Acting Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Arthur W. Han, Esq. Katten Muchin & Zavis (Mar. 14, 2000).

[6] The first Foreign Trading System No-Action Letter was issued to LIFFE on July 23, 1999. See Letter from I. Michael Greenberger, Director, Division of Trading and Markets, Commodity Futures Trading Commission, to Arthur W. Han, Esq., Katten Muchin & Zavis (July 23, 1999).

[7] Rule 5.3 allows a domestic board of trade that has been designated as a contract market in at least one non-dormant commodity to list new futures and option contracts for trading upon satisfaction of specified filing and certification requirements. A domestic board of trade is permitted, but not required, to list new contracts through this filing and certification procedure in lieu of compliance with either the regular or fast-track procedure for contract market designation. Revised Procedures for Listing New Contracts, 64 FR 66373 (Nov. 26, 1999).

Issued in Washington, DC on June 30, 2000, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Statement of Policy of the Commodity Futures Trading Commission Regarding the Listing of New Futures and Option Contracts by Foreign Boards of Trade That Have Received Staff No-Action Relief to Place Electronic Trading Devices in the U.S.

In light of newly-adopted Commodity Futures Trading Commission (''Commission'') Rule 5.3 [8] and the lack of difficulties that have arisen regarding the placement of the automated trading systems of foreign boards of trade in the U.S. pursuant to no-action relief issued by Commission staff, the Commission believes that foreign boards of trade generally should be permitted to list additional futures and option contracts through such systems, without obtaining supplemental no-action relief from Commission staff (''Supplemental Relief''). Specifically, the Commission believes that, subject to the exceptions and conditions listed below, a foreign board of trade that has received a no-action letter from Commission staff permitting it to place electronic trading devices in the U.S. that provide access to that board of trade (''Foreign Trading System No-Action Letter'') should be permitted to list new futures and option contracts for trading through the devices that are the subject of the particular no-action letter, without requesting or receiving Supplemental Relief.

In order to list new futures and option contracts without acquiring Supplemental Relief, a foreign board of trade should file the following with the Commission's Division of Trading and Markets at the Commission's Washington, D.C. headquarters no later than the close of Commission business on the business day preceding the initial listing of such futures and option contracts for trading through electronic trading devices located in the U.S.: (1) A copy of the initial terms and conditions of the additional futures and option contracts the foreign board of trade intends to list for trading through its U.S.-located electronic devices and (2) a certification from the foreign board of trade that it is in compliance with the terms and conditions of the Foreign Trading System No-Action Letter that it has received and that the additional futures and option contracts will be traded in accordance with such terms and conditions. This Statement of Policy does not apply to futures and option contracts that are covered by section 2(a)(1)(B) of the Commodity Exchange Act.[9] Foreign boards of trade continue to be required to seek and receive written supplemental no-action relief from Commission staff prior to offering such contracts through U.S.-located trading systems.

This Statement of Policy applies only to those foreign boards of trade that have received a Foreign Trading System No-Action Letter from Commission staff. It is intended exclusively to express the Commission's view that foreign boards of trade that have received a Foreign Trading System No-Action Letter be permitted to list futures and option contracts other than those specifically delineated therein without obtaining Supplemental Relief. The trading of all contracts through electronic trading devices that provide access to foreign boards of trade from within the U.S. continue to be subject to the terms and conditions of the Foreign Trading System No-Action Letter issued to the particular foreign board of trade. Moreover, this Statement of Policy does not alter the analysis that the Commission staff uses when considering requests for Foreign Trading System No-Action Letters, dictate the result of that analysis, or alter the authority of Commission staff to condition, modify, suspend, terminate, or otherwise restrict the no-action relief that it issues.

This Statement of Policy is effective immediately. This Statement of Policy and the Foreign Trading System No-Action Letters will cease to be effective in the event that the Commission adopts generally applicable rules or guidelines regarding the issues addressed therein, and foreign boards of trade would be subject to those rules or guidelines.

Chairman William J. Rainer, June 29, 2000.

Commissioner Barbara P. Holum, June 29, 2000.

Commissioner David D. Spears, June 29, 2000.

Commissioner James E. Newsome, June 28, 2000.

Commissioner Thomas J. Erickson, June 28, 2000.

[8] Revised Procedures for Listing New Contracts, 64 FR 66373 (Nov. 26, 1999).

[9] 7 USC 2a (1994). For example, this Statement of Policy does not alter requirement that a foreign board of trade seeking to offer in the U.S. a futures or futures option contract based upon a stock index receive a no-action letter from the Commission's Office of General Counsel.

Dissent of Commissioner Erickson to Statement of Commission Policy Regarding the Listing of New Futures and Option Contracts by Foreign Boards of Trade that Have Received Staff No Action Relief to Place Electronic Trading Devices in the United States

I respectfully dissent from the Commission's determination to expand, by today's policy statement, the no-action relief previously granted to certain foreign exchanges listing contracts on terminals located in the United States. On June 2, 1999, the Commission issued an order that provided for the issuance of staff no-action relief for the placement of terminals in the United States by foreign boards of trade. Although the June 1999 Order directed staff to ''begin immediately processing no-action requests,'' it also committed the agency to ''proceed[ing] expeditiously toward adoption of rules and/or guidelines.'' Since then, the Commission's staff has issued no-action relief to seven foreign exchanges, yet the Commission has taken no steps to initiate a public rulemaking process. Rather, the Commission today validates staff no-action as the appropriate vehicle for granting relief.

The no-action process is typically used to provide limited relief on discreet matters for individual petitioners. Today's relief extends to numerous exchanges that have not formally petitioned the Commission's staff for the expanded relief. While the expanded relief ultimately may be appropriate, the public policy issues raised by today's Commission action warrant notice to the public and an opportunity for comment. Today's policy statement sanctions a closed process to address matters of broad public policy. One of the fundamental obligations of any federal agency is to ensure that the public and interested parties have the opportunity to comment on policy actions of broad effect. I believe that today's decision fails to uphold that basic tenet of regulation and that the time has come for the Commission to propose rules that would foster the public debate and provide unified guidance through rules, rather than relief on a case-by-case basis.

Dated: June 28, 2000.

Thomas J. Erickson

[FR Doc. 00–17040 Filed 7–5–00; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request; Correction

AGENCY: Department of Education.

ACTION: Notice; correction.

SUMMARY: The Department of Education published a document in the **Federal Register** of June 21, 2000, concerning a request for comments on the Evaluation of the 21st Century Community Learning Centers Program. The reporting and recordkeeping responses on this document were incorrectly stated.

FOR FURTHER INFORMATION CONTACT: Jacqueline Montague, 202–708–5359.

Correction

In the **Federal Register** of June 21, 2000, in FR Doc 00–15573, on page 38521, in the 1st column, correct the ''Reporting and Recordkeeping Hour Burden'' to read:

Reporting and Recordkeeping Hour Burden: Responses: 18,780; Burden Hours: 41,090.

Dated: June 29, 2000.

John Tressler,

Leader, Regulatory Information Management.

[FR Doc. 00–17009 Filed 7–5–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

The Use of Tests When Making High-Stakes Decisions for Students: A Resource Guide for Educators and Policymakers

AGENCY: Office for Civil Rights, Department of Education.

ACTION: Notice of availability of draft document and request for comments.

SUMMARY: The Assistant Secretary for Civil Rights announces the availability for public comment of a draft document entitled ''The Use of Tests When Making High-Stakes Decisions for Students: A Resource Guide for Educators and Policymakers.'' The resource guide is designed to provide educators and policymakers with a useful, practical tool that will assist in their development and implementation of policies that involve the use of tests in making high-stakes decisions for students. The guide provides information about relevant Federal non-discrimination standards and professionally recognized test measurement principles, as well as a collection of resources related to the non-discrimination and test measurement principles discussed in the guide.

DATES: We must receive your comments on the draft document on or before August 7, 2000.

ADDRESSES: Address all comments and requests for copies of the draft document to Jeanette J. Lim, U.S. Department of Education, 400 Maryland Avenue, SW., room 5212 Switzer Building, Washington, DC 20202–1100. Telephone: (202) 205–5557 or 1–800–421–3481. For all comments submitted by letter, you must include the term ''Testing Comments.'' If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 260–0471 or 1–800–USA–LEARN. The draft document is also available through the Internet at the following site: http://www.ed.gov/offices/OCR/testing.

If you prefer to send your comments through the Internet, use the following address: ocr@ed.gov

You must include the term ''Testing Comments'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Jeanette J. Lim. Telephone: (202) 205–5557 or 1–800–421–3481. If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 260–0471 or 1–800–USA–LEARN.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audio-tape, or computer diskette) by contacting the Office for Civil Rights' Customer Service Team at (202) 205–5557 or 1–800–421–3481.

SUPPLEMENTARY INFORMATION: The purpose of the draft resource guide is to provide educators and policymakers with information about Federal non-discrimination standards and test measurement principles concerning the proper use of tests in making high-stakes decisions for students. The Department is accepting public comments on the draft resource guide.

Earlier versions of the draft resource guide have been reviewed by the National Academy of Science's Board on Testing and Assessment (BOTA), the U.S. Department of Justice's Civil Rights Division (CRD), and dozens of groups and individuals, including educators, parents, teachers, business leaders, policymakers, and others. BOTA conducted a public hearing on the resource guide on January 26, 2000. This draft seeks to respond to BOTA's, CRD's and other stakeholders' comments.

Invitation To Comment

We invite you to submit comments regarding this draft resource guide.

During and after the comment period, you may inspect all comments received during the public comment period in room 5036, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 10:00 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Public Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public record for this draft resource guide. If you want to schedule an appointment for this type of aid, you may call (202) 205–8113 or (202) 260–9895. If you use a TDD, you may call the Federal Information Relay Service at 1–800–877–8339.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at either of the following sites:

http://ocfo.ed.gov/fedreg.htm
http://www.ed.gov/news.html

To use the PDF, you must have Adobe Acrobat Reader, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this notice 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

Dated: June 28, 2000.

Norma V. Cantu,

Assistant Secretary for Civil Rights.

[FR Doc. 00–16860 Filed 7–5–00; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–227]

Application to Export Electric Energy; New York Independent System Operator, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: New York Independent System Operator, Inc. (NYISO) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act. In addition, NYISO is requesting expedited approval for their application.

DATES: Comments, protests or requests to intervene must be submitted on or before July 21, 2000.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Steven Mintz (Program Office) 202–586–9506 or Michael Skinker (Program Attorney) 202–586–2793.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On June 27, 2000, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from NYISO to transmit electric energy from the United States to Canada. NYISO is a not-for-profit New York corporation. NYISO does not own or control any electric power generation facilities, nor does it have a franchised electric power service area. NYISO does possess operational control over the transmission facilities in the state of New York. Those facilities continue to be owned by a group formerly known as the Member Systems of the New York Power Pool.

Two types of energy exports are proposed. First, in unforeseen circumstances, NYISO will make available emergency energy from its available generating capacity when a system emergency exists on Ontario's or Quebec's system or on the system of a third-party control area. A second type of energy export that may occur is an inadvertent energy transaction. Inadvertent energy is the difference between the actual metered energy interchange and the scheduled energy interchange between two adjacent control areas during transactions with Canada by others pursuant to their own export authority.

NYISO proposes to arrange for the delivery of electric energy to Canada over the existing international transmission facilities owned by Long Sault, Inc., New York Power Authority, and Niagara Mohawk Power Corporation. The construction, operation, maintenance, and connection of each of the international transmission facilities to be utilized by NYISO, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the NYISO application to export electric energy to Canada should be clearly marked with Docket EA–227. Additional copies are to be filed directly with Michael C. Calimano, Vice President Operations & Reliability, Rob Fernandez, General Counsel, New York Independent System Operator, Inc., 3890 Carman Road, Schenectady, NY 12303 AND Arnold H. Quint, Edwin G. Kichline, Hunton & Williams, 1900 K Street, NW., Suite 1200, Washington, DC 20006.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Electricity'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, D.C., on June 30, 2000.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 00–17118 Filed 7–5–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Chicago Operations Office; Office of Science; Notice of Solicitation for Financial Assistance Applications for the Commercialization Assistance Program (CAP)

AGENCY: DOE, Chicago Operations Office.

ACTION: Notice inviting financial assistance applications.

SUMMARY: The Department of Energy (DOE), Office of Science (SC), announces its interest in receiving applications for financial assistance. The purpose of this solicitation is to invite applications from small businesses to provide individualized assistance to DOE SBIR Phase II financial assistance award recipients which will lead to the successful commercialization of products, services, or technology developed in the DOE SBIR Phase II program. The individualized assistance may include, but is not limited to, business related areas such as raising capital, preparing business plans, forecasts, product focusing, strategic partnering, and marketing.

DATE: Applications are to be received no later than August 8, 2000, and may be submitted any time prior to this deadline.

FOR FURTHER INFORMATION CONTACT: Tonja L. Stokes, Acquisitions and Assistance Group, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439–4899, by telephone at 630/252–2136, by facsimile at 630/252–5045, or by electronic mail at *tonja.stokes@ch.doe.gov,* or Renee L. Irwin by telephone at 630/252–2566, by facsimile at 630/252–5045, or by electronic mail at *renee.irwin@ch.doe.gov.*

SUPPLEMENTARY INFORMATION:

Qualification and Evaluation Criteria

This solicitation is a restricted eligibility solicitation which is limited to small businesses. For purposes of this solicitation, the definition of a small business may be found at Title 13 of the Code of Federal Regulations (CFR) Part 121.20 and may be viewed or downloaded from the Internet at *http://www.access.gpo.gov/nara/cfr/index.html.* DOE plans to select for award the application(s) judged to be of the highest overall merit, with consideration given to the quality of the technical approach, company and personnel experience and qualifications, business evaluation, and cost factors.

Application Submission

The solicitation will be available on the internet on or about July 1, 2000 and may be accessed at the DOE Chicago Operations Office, Acquisition and Assistance Group home page at *http://www.ch.doe.gov/business/acq.htm* under the heading ''Current Solicitations,'' Soicitation No. DE–SC02–00ER12245. Completed applications referencing Solicitation No. DE–SC02–00ER12245 must be submitted to the U.S. Department of Energy, Chicago Operations Office, Communications Center, Building 201, Room 168, 9800 South Cass Avenue, Argonne, IL 60439–4899, ATTN: Tonja L. Stokes, Acquisition and Assistance Group.

Issued in Argonne, Illinois on June 27, 2000.

John D. Greenwood,

Group Manager, Acquisition and Assistance Group.

[FR Doc. 00–17114 Filed 7–5–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation.

DATES AND TIMES: Wednesday, July 12, 2000, 10:30 am–4 pm.

ADDRESSES: Renaissance Washington DC Hotel, East Salon Ballroom, 999 9th Street, NW., Washington, DC 20001–4427.

FOR FURTHER INFORMATION CONTACT: Betsy Mullins, Executive Director, or Richard Burrow, Deputy Director, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7092 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The purpose of the Secretary of Energy Advisory Board (The Board) is to provide the Secretary of Energy with essential independent advice and recommendations on issues of national importance. The Board and its subcommittees provide timely, balanced, and authoritative advice to the Secretary of Energy on the Department's management reforms, research, development and technology activities, energy and national security responsibilities, environmental cleanup activities, and economic issues relating to energy.

Tentative Agenda

The agenda for the July 12 meeting has not been finalized. However, the meeting will include a series of briefings and discussions on Department of Energy and Board activities. Members of the Public wishing to comment on issues before the Secretary of Energy Advisory Board will have an opportunity to address the Board during the afternoon period for public comment. The final agenda will be available at the meeting.

Public Participation

In keeping with procedures, members of the public are welcome to observe the business of the Secretary of Energy Advisory Board and submit written comments or comment during the scheduled public comment period. The Chairman of the Board is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, DC, the Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. You may submit written comments to Betsy Mullins, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes

A copy of the minutes and a transcript of the meeting will be made available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday except Federal holidays. Further information on the Secretary of Energy Advisory Board and its subcommittees may be found at the Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, DC, on June 29, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–17115 Filed 7–5–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

SUMMARY: This notice announces an open meeting of the Secretary of Energy Advisory Board's Laboratory Operations Board (LOB). The Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), requires that agencies publish these notices in the **Federal Register** to allow for public participation.

NAME: Secretary of Energy Advisory Board—Laboratory Operations Board.

DATES: Thursday, July 13, 2000, 8:30 am–3:15 pm, eastern daylight time.

ADDRESSES: Renaissance Washington D.C. Hotel, East Salon Ballroom, 999 9th Street, NW, Washington, DC, 20001

FOR FURTHER INFORMATION CONTACT: Richard Burrow, Acting Executive Director, or Laurie Keaton, LOB Staff Director, Office of Secretary of Energy Advisory Board (AB–1), US Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–7162 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION: The purpose of the Laboratory Operations Board is to provide independent external advice to the Secretary of Energy Advisory Board regarding the strategic direction of the Department's laboratories, the coordination of budget and policy issues affecting laboratory operations, and the reduction of unnecessary and counterproductive management burdens on the laboratories. The Laboratory Operations Board's goal is to facilitate the productive and cost-effective utilization of the Department's laboratory system and the application of best business practices.

Tentative Agenda

Thursday, July 13, 2000

8:30 a.m.–8:45 a.m. Co-Chairs Opening Remarks
8:45 a.m.–9:30 a.m. Strategic Information Management Study to Modernize the DOE's Corporate R&D Portfolio Management Environment
9:30 a.m.–10:30 a.m. Management Initiatives at DOE Headquarters
10:30 a.m.–10:45 a.m. Break
10:45 a.m.–12:00 p.m. National Nuclear Security Administration Laboratories—Work Relationships
12:00 p.m.–1:00 p.m. Lunch
1:00 p.m.–2:00 p.m. Lab Stories: Performance-Based Management
2:00 p.m.–2:30 p.m. Laboratory Infrastructure Modernization
2:30 p.m.–2:45 LOB Work Plan
2:45 p.m.–3:00 p.m. Revisions to LOB Terms of Reference

3:00 p.m.–3:15 p.m. Public Comment Period
3:15 p.m. Adjourn

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation

In keeping with procedures, members of the public are welcome to monitor the business of the Laboratory Operations Board and to submit written comments or comment during the scheduled public comment period. The meeting will be conducted in a fashion that will, in the Co-Chairs, judgment, facilitate the orderly conduct of business. During its open meeting, the Laboratory Operations Board welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Board will make every effort to hear the views of all interested parties. You may submit written comments to Richard Burrow, Acting Executive Director, Secretary of Energy Advisory Board, AB–1, US Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. This notice is being published less than 15 days before the date of the meeting due to the late resolution of programmatic issues.

Minutes

A copy of the minutes and a transcript of the meeting will be made available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 am and 4:00 pm, Monday through Friday except Federal holidays. Further information on the Laboratory Operations Board is available at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on June 29, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–17117 Filed 7–5–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Los Alamos

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Wednesday, July 26, 2000; 6:00 pm–9 pm.

ADDRESSES: Pueblo Tribal Council Meeting Room, New Mexico Highway 16, Cochiti Pueblo, New Mexico.

FOR FURTHER INFORMATION CONTACT: Ann DuBois, Northern New Mexico Citizens' Advisory Board, 1640 Old Pecos Trail, Suite H, Santa Fe, NM 87505. Phone: 505–989–1662; Fax: 505–989–1752; E-mail: *adubois@doeal.gov;* or Internet http:www.nnmcab.org.

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

Opening Activities—6 p.m.–6:30 p.m.;
Public Comment—6:30 p.m.–7 p.m.
Committee Reports:
Environmental Restoration
Monitoring and Surveillance
Waste Management
Community Outreach
Budget

Other Board business will be conducted as necessary.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ann DuBois at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 1640 Old Pecos Trail, Suite H, Santa Fe, NM 87505. Hours of operation for the Public Reading Room are 9 a.m. and 4 p.m. on Monday through Friday. Minutes will also be made available by writing or calling Ann DuBois at the Board's office address or telephone number listed above.

Issued at Washington, DC on June 29, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–17116 Filed 7–5–00; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Notice of Intent To Grant Exclusive Copyright License

AGENCY: Department of Energy, Office of the General Counsel.

ACTION: Notice of intent to grant exclusive copyright license.

SUMMARY: Notice is hereby given of an intent to grant to Business Commerce Solutions of Gaithersburg, Maryland an exclusive license in the U.S. copyright in the EC–WEB EC/EDI Gateway small purchase software, as well as the right to register the copyright in foreign countries. A Notice to the effect that the computer software was available for license appeared in the February 7, 2000 issue of the **Federal Register** [65 FR 5859]. The two entities which responded to that Notice were asked to respond to a Questionnaire which asked them to detail their plans for maintaining and updating the software, and the resources they were ready, willing and able to commit to the task. Based on these responses, Business Commerce Solutions was chosen as the exclusive licensee. The copyright will be held by the United States of America, as represented by the Department of Energy (DOE). DOE intends to grant the license, unless within 15 days of this notice the Assistant General Counsel for Technology Transfer and Intellectual Property, Department of Energy, Washington, DC 20585, receives in writing a statement from any person setting forth a reason or reasons why it would not be in the best interests of the United States to grant the proposed license, together with supporting documents.

DATES: Send written comments to the address listed below no later than July 21, 2000.

ADDRESSES: Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Michael P. Hoffman, Office of the Assistant General Counsel for Technology Transfer and Intellectual Property, U.S. Department of Energy, Forrestal Building, Room 6F–067, 1000 Independence Avenue, SW., Washington, DC 20585; Telephone (202) 586–3441.

SUPPLEMENTARY INFORMATION: The above-described software was prepared under Government contract. Business Commerce Solutions, in return for an exclusive royalty-free license in the software, will maintain and revise the software, making the revisions available to the Government free of charge, thereby relieving the Government of part of the labor and expense of doing so.

Issued in Washington, D.C., on June 29, 2000.

Paul A. Gottlieb,

Assistant General Counsel for Technology Transfer and Intellectual Property.

[FR Doc. 00–17119 Filed 7–5–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–277–001]

Canyon Creek Compression Company; Notice of Compliance Filing

June 29, 2000.

Take notice that on June 19, 2000, Canyon Creek Compression Company (Canyon Creek) filed to comply with the Director letter order issued on June 6, 2000, in Docket No. RP00–277–000, which required Canyon Creek to provide a corrected electronic version of Third Revised Sheet No. 137 to FERC Gas Tariff, Third Revised Volume No. 1. Canyon Creek previously submitted an updated Third Revised Sheet No. 137 in hard copy form but inadvertently did not update the electronic copy of Third Revised Sheet No. 137.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in 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. 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. 00–17000 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2885–001]

Cedar Breaks I, L.L.C.; Notice of Filing

June 29, 2000.

Take notice that on June 29, 2000, Cedar Breaks I, L.L.C. (Cedar Breaks), tendered for filing an amendment to its proposed FERC Electric Tariff, Original Volume No. 1, filed with the Commission on June 19, 2000 in the above-referenced docket. The amendment clarifies language concerning the prohibition on sales to affiliates with franchised service territories.

Cedar Breaks intends to engage in wholesale electric power and energy purchases and sales.

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 and protests should be filed on or before July 10, 2000. Protests will be considered by the Commission to determine 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–17054 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–354–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 29, 2000.

Take notice that on June 23, 2000, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing, with a proposed effective date of August 1, 2000.

Columbia states that the purpose of this filing is to update its tariff consistent with Commission policy and decisions on tariff filings made by other interstate pipelines concerning permissible discounting arrangements and negotiated-rate authority related charges. Columbia's proposed tariff changes address an additional permissible discounted rate arrangement, negotiated rates and capacity release billing provisions, conversion of discount arrangements to negotiated rate arrangements, and the negotiation of surcharges and retainage.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers and affected state 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 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. 00–17002 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–005]

Dominion Transmission, Inc. (Formerly CNG Transmission Corporation); Notice of Negotiated Rate Compliance Filing

June 29, 2000.

Take notice that on June 26, 2000, Dominion Transmission, Inc. (DTI) (formerly CNG Transmission Corporation) tendered for filing to the Federal Energy Regulatory Commission the following tariff sheet for disclosure of a recently negotiated rate transaction:

Original Sheet No. 399A

DTI requests an effective date of May 19, 2000, for this negotiated rate agreement.

DTI states that copies of the filing have been served on all parties on the official service list created by the Secretary in this proceeding, DTI's customers, and interested state 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 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. 00–16994 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–006

Dominion Transmission, Inc. (Formerly CNG Transmission Corporation); Notice of Negotiated Rate Filing

June 29, 2000.

Take notice that on June 23, 2000, Dominion Transmission, Inc. (DTI) (formerly CNG Transmission Corporation) tendered for filing to the Federal Energy Regulatory Commission (Commission) the following Letter Agreement and tariff sheets for disclosure of a recently negotiated rate transaction:

Letter Agreement between Dominion Transmission, Inc. and PSEG Power NY Inc. Dated June 14, 2000
Ninth Revised Sheet No. 251 Original Sheet No. 399

DTI requests an effective date of July 1, 2000, for this negotiated rate agreement.

DTI states that copies of the filing have been served on all parties on the official service list created by the Secretary in this proceeding, DTI's customers, and interested state 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 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. 00–16995 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM00–1–22–002]

Dominion Transmission, Inc; Notice of Proposed Changes in FERC Gas Tariff

June 29, 2000.

Take notice that on June 22, 2000, Dominion Transmission, Inc. (DTI), filed as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Effective November 1, 1999

Second Substitute Twenty-Fourth Revised Sheet No. 31
Second Substitute Fifty-Second Revised Sheet No. 32
Substitute Forty-Sixth Revised Sheet No. 33
Second Substitute Twenty-Third Revised Sheet No. 35

Effective January 1, 2000

Second Substitute Twenty-Sixth Revised Sheet No. 31
Third Substitute Twenty-Sixth Revised Sheet No. 31
Substitute Fifty-Third Revised Sheet No. 32

Effective February 1, 2000

Substitute Twenty-Seventh Revised Sheet No. 31
Substitute Twenty-Eighth Revised Sheet No. 31
Substitute Fifty-Fourth Revised Sheet No. 32
Substitute Fifty-Fifth Revised Sheet No. 32
Substitute Forty-Seventh Revised Sheet No. 33
Substitute Twenty-Fourth Revised Sheet No. 35

Effective May 1, 2000

Substitute Fifty-Sixth Revised Sheet No. 32

DTI states that the purpose of this filing is to comply with the Commission's order dated June 16, 2000 (June 16, 2000 Order) which accepted DTI's September 30, 1999 filing to revise its Transportation Cost Rate Adjustment (TCRA) with one exception. Specifically, the Commission ordered DTI to file revised TCRA rates, effective November 1, 1999, which reflect the allocation of unrecovered storage gas losses 74.5 percent to transportation services and 25.5 percent to storage services. DTI states that the revised tariff sheets fully comply with the June 16, 2000 Order.

DTI states that copies of its filing have been served upon DTI's customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be

filed as provided in 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. 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. 00–17006 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT00–33–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

June 29, 2000.

Take notice that on June 26, 2000, El Paso Natural Gas Company (El Paso) tendered for filing three firm Transportation Service Agreements (TSAs) between El Paso and MGI Supply, Ltd. (MGI) and Eighteenth Revised Sheet No. 1 to its FERC Gas Tariff, Second Revised Volume No. 1–A.

El Paso states that it is submitting the TSAs for Commission approval since the TSAs contain provisions which differ from El Paso's Volume No. 1–A Tariff. The tariff sheet, which references the TSAs, is proposed to become effective on August 27, 2000.

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 on or before July 6, 2000. 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. 00–16998 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–356–000]

El Paso Natural Gas Company; Notice of Tariff Filing

June 29, 2000.

Take notice that on June 26, 2000, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets:

Effective March 26, 2000

Third Revised Sheet No. 289
Second Revised Sheet No. 336
Fifth Revised Sheet No. 338
1st Revised Third Revised Sheet No. 339
First Revised Sheet No. 342
Second Revised Sheet No. 346
Fifth Revised Sheet No. 350
Third Revised Sheet No. 350A

Effective June 1, 2000

Second Revised Sheet No. 308

El Paso states that the tariff sheets are being submitted, pursuant to Order No. 637, to (i) remove the rate ceiling for capacity releases of less than one year, (ii) modify El Paso's right-of-first-refusal provisions applicable to long term firm contracts at the maximum rate, and (iii) revise the electronic bulletin board description to refer to El Paso's Internet Web site.

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. 00–17004 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT00–8–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

June 29, 2000.

Take notice that on June 26, 2000, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective August 1, 2000:

Eleventh Revised Sheet No. 3
Fourth Revised Sheet No. 360
Fourth Revised Sheet No. 361

Natural states that on April 5, 2000, Kinder Morgan, Inc. closed on a transaction with ONEOK, Inc. (ONEOK) whereby various assets and entities were transferred to ONEOK, including all entities that were then marketing affiliates of Natural. As a result of the transaction, Natural states that it no longer has a marketing affiliate and is revising its Tariff accordingly.

Natural respectfully requests waiver of any provisions of its Tariff and/or the Commission's Regulations required to permit the instant filing to become effective as proposed.

Natural states that copies of the filing are being mailed to its 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. 00–16993 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–358–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

June 29, 2000.

Take notice that on June 27, 2000, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Review Volume No. 1, certain tariff sheets to become effective March 27, 2000.

Natural states that on February 9, 2000, the Federal Energy Regulatory Commission (Commission) issued its final rule regarding the regulation of short-term interstate natural gas transportation services in Docket Nos. RM98–10–000 and RM98–12–000 (Order No. 637). In the instant filing, Natural is filing to implement provisions of Order No. 637 regarding the waiver of the rate ceiling for short-term capacity release transactions.

Natural states that Order No. 637 provides for a waiver of the rate ceiling for short-term (less than one year) capacity release transactions until September 30, 2002, and requires pipelines to file tariff revisions within 180 days of the effective date of the rule, *i.e.,* March 27, 2000, to remove tariff provisions which are inconsistent with the removal of the rate ceiling. Accordingly, Natural is filing revised tariff sheets as required. Natural states that its Order No. 637 compliance plan is not due until July 17, 2000. Therefore, if Natural were to wait until its Order No. 637 compliance filing, the tariff provisions removing the price cap submitted therein would likely not be effective until 2001.

Natural respectfully requests waiver of any provisions of its Tariff and/or the Commission's Regulations required to permit the instant filing to become effective as proposed.

Natural states that copies of the filing are being mailed to its 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. 00–17005 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–2887–001]

Newark Bay Cogeneration Partnership, L.P.; Notice of Filing

June 29, 2000

Take notice that on June 29, 2000, Newark Bay Cogeneration Partnership, L.P. (NBCP) tendered for filing with the Commission an amendment to its proposed FERC Electric Tariff, Original Volume No. 1, filed on June 19, 2000 in the above-referenced docket. The amendment clarifies language concerning the prohibition on sales to affiliates with franchised service territories.

NBCP intends to engage in wholesale electric power and energy purchases and sales.

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 and protests should be filed on or before July 10, 2000. Protests will be considered by the Commission to determine 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 00–17055 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–355–000]

Trailblazer Pipeline Company; Notice of Proposed Change in FERC Gas Tariff

June 29, 2000.

Take notice that on June 26, 2000 Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective March 27, 2000.

Trailblazer states that on February 9, 2000, the Federal Energy Regulatory Commission (Commission) issued its final rule regarding the regulation of short-term interstate natural gas transportation services in Docket Nos. RM98–10–000 and RM98–12–000 (Order No. 637). In the instant filing, Trailblazer is filing to implement provisions of Order No. 637 regarding the waiver of the rate ceiling for short-term capacity release transactions.

Trailblazer states that Order No 637 provides for a waiver of the rate ceiling for short-term (less than one year) capacity release transactions until September 30, 2002, and requires pipeline to file tariff revisions within 180 days of the effective date of the rule, i.e., March 27, 2000, to remove tariff provisions which are inconsistent with the removal of the rate ceiling. Accordingly, Trailblazer is filing revised tariff sheets as required. Trailblazer states that its Order No. 637 compliance plan is not due until August 15, 2000. Therefore, if Trailblazer were to wait until its Order No 637 compliance filing, the tariff provisions removing the price cap submitted therein would likely not be effective until 2001.

Trailblazer respectfully requests waiver of any provisions of its Tariff and/or the Commission's Regulations required to permit the instant filing to become effective as proposed.

Trailblazer states that copies of the filing are being mailed to its customers and interested state 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 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. http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–17003 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–224–002]

Transwestern Pipeline Company; Notice of Compliance Filing

June 29, 2000.

Take notice that on June 23, 2000, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet to be effective March 27, 2000.

2 Substitute Sixth Revised Sheet No. 95E

Transwestern states that this filing is made to comply with the Commission's June 8, 2000 order accepting the tariff sheets filed by Transwestern in this proceeding, subject to Transwestern specifying that all releases of more than 31 days, but less than 1 year, prearranged or otherwise, must be posted for bidding.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in 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. 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. 00–16999 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–282–001]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

June 29, 2000.

Take notice that on June 23, 2000, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to become effective June 1, 2000:

Substitute Second Revised Sheet No. 291

Williston Basin states that on June 9, 2000, the Commission issued its ''Order Accepting Tariff Sheets Subject to Conditions'', in the above-referenced docket. The Order required Williston Basin to file revised tariff language reflecting the clarification made in Order No. 637–A, providing that a maximum rate contract for more than one year, for a service which is not available for 12 consecutive months, would be subject to the right of first refusal. Williston Basin states it is submitting the instant filing to comply with that Order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in 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. 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. 00–17001 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–375–012]

Wyoming Interstate Company, Ltd; Notice of Compliance Filing

June 29, 2000.

Take notice that on June 23, 2000, Wyoming Interstate Company, Ltd. (WIC) tendered for filing as part if its FERC Gas Tariff, Second Revised Volume No. 2, the tariff sheets listed on Appendix A to the filing, to become effective on the dates indicated on each sheet.

WIC asserts that the purpose of this filing is to comply with the Commission's order issued October 13, 1999 in Docket No. RP97–375.

Specifically, this filing documents transportation rates for the periods December 1, 1997 through December 31, 1999 and incorporates changes made pursuant to the Commission's order to WIC's interest tracker, Columbia Exit Fee and negotiated rate and interruptible service revenue crediting provisions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in 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. 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. 00–16996 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG00–137–000, et al.]

TXU (No. 5) Pty Ltd, et al.; Electric Rate and Corporate Regulation Filings

June 27, 2000.

Take notice that the following filings have been made with the Commission:

1. TXU (No. 5) Pty Ltd.

[Docket No. EG00–137–000]

Take notice that on June 19, 2000, TXU (No. 5) Pty Ltd (TXU (No. 5) filed with the Federal Energy Regulatory Commission (Commission) a supplement to its application for determination of exempt wholesale generator status pursuant to Section 32 of the Public Utility Holding Company Act of 1935 and Part 365 of the Commission's regulations. TXU No. 5 is an Australian corporation that is an indirect subsidiary of Texas Utilities Company, a Texas corporation which is an exempt holding company under the Public Utility Holding Company Act of 1935, as amended.

Comment date: July 18, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Front Range Power Company, LLC

[Docket No. EG00–159–000]

Take notice that on June 21, 2000, Front Range Power Company, LLC, 6647 Generation Drive, Fountain, Colorado 80817, filed with the Federal Energy Regulatory Commission an amendment to its application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations. The initial application was filed on June 5, 2000, Front Range Power Company filed with the Commission an amendment to its June 5, 2000, application.

Front Range Power Company, LLC is a Colorado limited liability company formed by Coastal Power Company (Coastal), a Delaware corporation and wholly owned affiliate of The Coastal Corporation and Colorado Springs Utilities (CSU), an enterprise of the City of Colorado Springs, Colorado, to develop, design, construct, own, operate and maintain a natural gas-fired combined-cycle electric generation plant with a maximum capacity of approximately 480 MW, located on a 23-acre parcel of land approximately 17 miles south of Colorado Springs, Colorado.

Comment date: July 18, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. Constellation Power Source Generation, Inc.

[Docket No. EG00–179–000]

Take notice that on June 21, 2000, Constellation Power Source Generation, Inc. (Applicant), a Maryland corporation with its principal place of business at 511 W. Market Street, Baltimore, Maryland 21203–1475, filed with the Federal Energy Regulatory Commission an application for determination, on an expedited basis, of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Comment date: July 18, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Calvert Cliffs Nuclear Power Plant, Inc.

[Docket No. EG00–180–000]

Take notice that on June 21, 2000, Calvert Cliffs Nuclear Power Plant, Inc. (Applicant), a Maryland corporation with its principal place of business at 39 W. Lexington Street, Baltimore, Maryland 21203–1475, filed with the Federal Energy Regulatory Commission an application for determination, on an expedited basis, of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

Comment date: July 18, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

5. Hamakua Energy Partners, L.P.

[Docket No. EG00–181–000]

Take notice that on June 21, 2000, Hamakua Energy Partners, L.P., a Hawaii limited partnership, with its principal office located at J. A. Jones Drive, Charlotte, North Carolina 28287, filed with the Federal Energy Regulatory Commission (Commission) an Application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations and Section 32 of the Public Utility Holding Company Act of 1935, as amended. Applicant is a Hawaii limited partnership that will be engaged directly and exclusively in operating an approximately 63 MW net naphtha and distillate oil-fired power plant (the Facility) located in Honakaa, in the northern coastal region of the island of Hawaii, and selling energy at wholesale from the Facility.

Comment date: July 18, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

6. PJM Interconnection, L.L.C.

[Docket No. EL00–85–000]

Take notice that on June 19, 2000, PJM Interconnection, L.L.C. (PJM), tendered for filing a petition under Rule 207 of the Commission's Rules of Practice and Procedure, 18 CFR 385.207, requesting that the Commission find and declare that PJM may recover from PJM's customers, through PJM's formula rates, PJM's costs to acquire from the PJM transmission owners the information technology and other assets that PJM uses to conduct its operations.

Comment date: July 19, 2000, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

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. 00–16992 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2616–004 New York]

Erie Boulevard Hydropower L.P.; Notice of Availability of Environmental Assessment

June 30, 2000.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for a new major license for the Hoosic River Hydroelectric Project located on the Hoosic River in Rensselaer and Washington Counties, New York, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental effects of the proposed project and has concluded that approval of the proposed project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch of the Commission's offices at 888 First Street, NE., Room 2A, Washington, DC 20426, and may also be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (please call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–17056 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Temporarily Draw Down Jersey Reservoir and Soliciting Comments, Motions To Intervene and Protests

June 30, 2000.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request to temporarily drawn down the Jersey Reservoir, approximately three feet, for project maintenance purposes.

b. *Project Number:* 2476–018.

c. *Date Filed:* May 22, 2000.

d. *Applicant:* Wisconsin Public Service Corporation.

e. *Name of Project:* Jersey Hydroelectric Project.

f. *Location:* On the Tomahawk River in Lincoln County, Wisconsin.

g. *Filed Pursuant to:* 18 CFR 12.11.

h. *Applicant Contact:* Charles Schrock, Senior V.P. Energy Supply, Wisconsin Public Service Corporation, 700 North Adams Street, Green Bay, WI 54307–9002.

i. FERC Contact: Any questions on this notice should be addressed to Thomas LoVullo, telephone (202) 219–1168 or e-mail address: thomas.lovullo@ferc.fed.us.

j. Deadline for Filing Comments or Motions: August 7, 2000. All comments or motions must be filed by providing an original and eight copies as required by the Commissions regulations to: David P. Boergers, Secretary; Federal Energy Regulatory Commission; 888 First Street, NE; Washington, DC 20426.

k. Description of Request: Wisconsin Public Service Corporation proposes to draw down the Jersey Reservoir, approximately three feet, in order to repair the intake bullnose piers. The draw down is proposed to begin September 5, 2000 at a rate not to exceed one inch per hour. Maintenance construction is anticipated to take approximately four weeks. Refiling the reservoir would begin no later than October 4, 2000 at a rate not to exceed one inch per hour. Minimum flow through the project would be maintained during the refilling of the reservoir. Under normal historic flows, it is anticipated that the reservoir would be returned to operating level of October 6, 2000.

The purpose of this notice is to invite any comments on Wisconsin Public Service Corporation's request to draw down the reservoir to repair the intake piers.

l. 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, D.C. 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

Comments, Protests, Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTESTS'', OR ''MOTION OF INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

David P. Boergers,

Secretary.

[FR Doc. 00–17057 Filed 7–5–00; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OEI-100001; FRL-6592-2]

Toxics Release Inventory; Alternate Threshold for Low Annual Reportable Amounts; Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB) pursuant to the procedures described in 5 CFR 1320.12. The ICR is a continuing ICR titled:*Alternate Threshold for Low Annual Reportable Amounts, Toxic Chemical Release Reporting* (EPA ICR No. 1704.05, OMB Control No. 2070-0143). This ICR covers the reporting and recordkeeping requirements associated with reporting under the alternate threshold for reporting to the Toxic

Release Inventory (TRI), which appear at 40 CFR part 372. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Written comments, identified by the docket control number OEI-100001, must be received by EPA on or before September 5, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For general information contact: Maria Doa, Director, Toxic Releases Inventory Program Division, Office of Information Analysis and Access, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460, Telephone: 202-260-1488. For technical information contact: Judith Kendall, Toxic Releases Inventory Program Division, Office of Information Analysis and Access, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; Telephone: 202-260-1802; Fax: 202-401-0237; email: kendall.judith@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Affected Entities

Entities potentially affected by this action are those chemical facilities that manufacture, process, or otherwise use certain toxic chemicals listed on the Toxics Release Inventory (TRI) and which are required under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), to report annually to EPA their environmental releases of such chemicals.

B. To Obtain Additional Information, Copies of this Document, or Other Support Documents

1. *Electronic availability.* Electronic copies of the ICR are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under ''Laws and Regulations'' http://www.epa.gov/fedrgstr/. An electronic copy of the collection instrument referenced in this ICR and instructions for its completion are available at http://www.epa.gov/tri/report.htm.

2. *In person.* The Agency has established an official record for this action under docket control number OEI-100001. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 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.

C. To Submit Comments

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number (i.e., ''OEI-100001'') in your correspondence.

1. *By mail.* All comments should be sent in triplicate to : Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Comments may be delivered in person or by courier to: OPPT Document Control Office (DCO) in 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.* Submit your comments electronically by e-mail to: ''oppt.ncic@epa.gov.'' Please note that you should 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 and data will also be accepted on standard computer disks in WordPerfect 6.1/8.0 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OEI-100001. Electronic comments on this document may also be filed online at many Federal Depository Libraries.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

II. Background

The EPA would like to solicit 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 Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

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.

EPA is seeking comments on the following ICR, as well as the Agency's intention to renew the corresponding OMB approval, which is currently scheduled to expire on February 28, 2001.

Title: Alternate Threshold for Low Annual Reportable Amounts.

ICR numbers: EPA ICR No. 1704.05, OMB No. 2070-0143, expiring February 28, 2001.

Abstract: EPCRA section 313 requires certain facilities manufacturing, processing, or otherwise using certain toxic chemicals in excess of specified threshold quantities to report their environmental releases of such

chemicals annually. Each such facility must file a separate report for each such chemical.

In accordance with the authority in EPCRA, EPA has established an alternate threshold for those facilities with low amounts of a listed toxic chemical in wastes. A facility that otherwise meets the current reporting thresholds but estimates that the total amount of the chemical in total waste does not exceed 500 pounds per year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year, can take advantage of reporting under the alternate threshold option for that chemical for that reporting year.

Each qualifying facility that chooses to apply the revised threshold must file the Form A (EPA Form 9350-2) in lieu of a complete TRI reporting Form R (EPA Form 9350-1). In submitting the Form A, the facility certifies that the sum of the amount of the EPCRA section 313 chemical in wastes did not exceed 500 pounds for the reporting year, and that the chemical was manufactured, processed, or otherwise used in an amount not exceeding 1 million pounds during the reporting year. Use of the Form A in place of the Form R represents a substantial savings to respondents, both in burden hours and in labor costs.

The primary function served by the submission of the Form A is to satisfy the statutory requirement to maintain reporting on a substantial majority of releases for all listed chemicals. Without the Form A, users of TRI data would not have access to any information on these chemicals. The Form A also serves as a *de facto* range report, which is useful to any party interested in amounts being handled at a particular facility or for broader statistical purposes. Additionally, the Form A provides compliance monitoring and enforcement programs and other interested parties with a means to track chemical management activities and verify overall compliance with the rule. Responses to this collection of information are mandatory (see 40 CFR part 372) and facilities subject to reporting must either submit a Form A or a Form R.

Burden statement: The annual public burden for this collection of information, which is approved under OMB Control No. 2070-0143, is estimated to average 34.6 hours per each form, for a facility which certifies one chemical per form A. For facilities which choose to certify two chemicals per form A, the estimated burden is 67.8 hours per form. Responding to this information collection requires: (1) Determining whether a listed toxic chemical is eligible for certification under the alternate threshold, and (2) completing the Form A. The burden of determining eligibility for certification is estimated to average 33.2 hours for each chemical that is certified. The burden of completing the Form A is estimated to average 1.4 hours, regardless of the number of chemicals being certified. The total burden per response is the combination of these two, and will vary depending on the number of listed toxic chemicals being certified.

EPA estimates that as many as 7,397 respondents may submit a Form A with these responses containing a total of 14,793 certifications. Total respondent burden and cost for completing those Form As are estimated at approximately 582,000 burden hours and $45.3 million per year. (The alternate threshold may save reporting facilities up to 189,000 hours, with a dollar value of $11 million, compared to the cost of reporting on Form R.) The estimated burden in this supporting statement differs from what is currently in OMB's inventory for alternate threshold reporting (13,157 respondents, 9,072 responses, and 646,875 burden hours) as a result of both an adjustment and a program change. The adjustment was made by calculating the number of eligible respondents and responses from the manufacturing sector based on TRI data from the 1998 reporting year (the most recent TRI data available). This adjustment reduced reporting burden by 62,772 hours. The program change was made by excluding the reporting of PBT chemicals on Form A. This change reduces the burden associated with this collection. The portion of the change due to this regulatory change decreases burden by 2,114 hours.

Estimated number of respondents: 7,397 respondents.

Estimated total annual burden on respondents: 582,000 burden hours.

Frequency of collection: Annual.

List of Subjects

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: June 23, 2000.

Margaret N. Schneider,

Principal Deputy Assistant Administrator, Office of Environmental Information.

[FR Doc. 00–16967 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6730–5]

Program Description of the National Environmental Achievement Track

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On June 26, 2000, EPA announced the design of its National Environmental Achievement Track (Achievement Track). The Achievement Track is the first of a two-tier EPA program that is designed to recognize and encourage top environmental performers. In the spring of 2001, EPA intends to announce the design of the second tier, the National Environmental Stewardship Track. This notice provides a detailed description of the Achievement Track.

FOR FURTHER INFORMATION CONTACT: Julie Spyres, Office of Policy and Reinvention, 202–260–6787 or by email at Spyres.Julie@epa.gov.

ADDRESSES: Office of Policy and Reinvention, U.S. Environmental Protection Agency, Ariel Rios Building, Mailcode 2129, 1200 Pennsylvania Avenue, Washington, DC 20460. Additional information may also be found at the Performance Track Information Center (toll free) 1–888–339 PTRK (7875) or at the EPA Performance Track website at http://www.epa.gov/performancetrack.

SUPPLEMENTARY INFORMATION:

Title: National Environmental Achievement Track Program Description

Abstract:

The National Environmental Achievement Track Program Description

I. Introduction
II. The National Environmental Achievement Track
A. Entry Criteria
1. Environmental Management System (EMS)
2. Demonstrated Environmental Achievements and Commitment to Continued Improvement
3. Public Outreach and Performance Reporting
4. Record of Sustained Compliance with Environmental Requirements
B. Incentives for Participation
C. Implementation
1. Application and Notification Process
2. Continued Compliance
3. Protocol for Site Visits
4. Annual Performance Report
5. Removal from the Achievement Track
D. The State Role and Relationship
E. Small Business Participation

III. The National Environmental Stewardship Track
IV. The EPA Administrator's Environmental Awards Program

I. Introduction

The National Environmental Performance Track program is designed to recognize and encourage top environmental performers—those who go beyond compliance with regulatory requirements to attain levels of environmental performance and management that benefit people, communities, and the environment.

Our system of environmental protection continues to evolve. There is a growing recognition that government should complement existing programs with new tools and strategies that not only protect people and the environment, but also capture opportunities for reducing costs and spurring technological innovation.

Over the last several years, EPA has joined states, businesses, and community and environmental groups in experimenting with new approaches that achieve high levels of environmental protection with greater efficiency. EPA's Common Sense Initiative was designed to improve environmental results by tailoring strategies for six industry sectors. Project XL offers an opportunity to test alternative management strategies that promise better results. The national Environmental Leadership Program and EPA Region I's Star Track program offer new ways to encourage businesses to do better than required. Likewise, many states have developed innovative programs for improving environmental performance.

This program builds upon the lessons EPA has learned from several state leadership programs and from its own efforts. We learned that innovations in environmental management can be used to create strategic business opportunities and advantages while maximizing the health and productivity of our ecosystems and communities. We learned the importance of keeping innovation programs simple and their transaction costs low. We know that we must focus on performance, not just the means of achieving it, and derive measurable results from our programs.

The Performance Track program is the culmination of these efforts. It will recognize innovation, motivate others to improve, and complement existing regulatory activities. It has been designed so that criteria for participation are proportional to the benefits. It will encourage participation by small, medium, and large facilities. It also emphasizes the importance of effective state/EPA partnerships and the need to inform and involve citizens and communities.

EPA will be implementing the National Environmental Performance Track program at two levels. The first level, the National Environmental Achievement Track (Achievement Track), is designed to recognize facilities that consistently meet their legal requirements and have implemented high-quality environmental management systems, as well as to encourage them to achieve more by continuously improving their environmental performance and informing and involving the public.

The second level, the National Environmental Stewardship Track (Stewardship Track), is still under development. It is being designed to recognize and encourage broader and higher levels of voluntary environmental performance than those expected under the Achievement Track. These may include improvement in several categories of environmental performance; a focus on environmental management and performance with regard to customers, suppliers, and transporters; attention to product stewardship; and even better community engagement and public outreach.

In developing the Achievement Track, EPA has consulted extensively with stakeholders and state environmental agencies. EPA initially proposed to develop a Performance Track program in its report, Aiming for Excellence, which it published in July 1999. In March of this year, EPA released a draft program description and held five public meetings across the country on this proposal. In addition, EPA has consulted closely with state officials, including a national forum to discuss state programs, issues, and participation.

This notice announces the National Environmental Achievement Track.[1] EPA plans to launch the Stewardship Track in May 2001. Although this notice focuses on the Achievement Track, a later section describes the concept of the Stewardship Track and the process EPA will use to develop it.

II. The National Environmental Achievement Track

This section describes the criteria a facility will voluntarily meet to qualify for the Achievement Track, the incentives EPA intends to provide, the approach EPA intends to take to implement the program, and how EPA will manage this program with the states.

A. Entry Criteria

To qualify for the Achievement Track, a facility will demonstrate that it:

- Has adopted and implemented an environmental management system (EMS) that includes the elements specified below;
- Is able to demonstrate specific environmental achievements and commit to continued improvement;
- Commits to public outreach and performance reporting; and
- Has a record of sustained compliance with environmental requirements.

1. Environmental Management System (EMS)

A facility will certify that it has an EMS in place.[2] The EMS will include the elements listed below and will have gone through at least one full cycle of implementation (*i.e.,* planning, setting performance objectives, EMS program implementation, performance evaluation, and management review). A facility that has adopted systems based on EMS models with a Plan-Do-Check-Act framework would meet most of these elements.

EPA recognizes that the scope and level of formality of the EMS will vary, depending on the nature, size, and complexity of the facility. EPA's experience with a variety of programs suggests that these EMS elements are within the capability of small facilities and can be met through a variety of approaches. To help small facilities implement an EMS, EPA will make guidance documents and assistance materials available.

A facility will certify that it has implemented an EMS that includes these elements:

Policy

- A written environmental policy, defined by top facility management, that includes commitments to: (1) Compliance with both legal requirements and voluntary commitments; (2) pollution prevention (based on a pollution prevention hierarchy where source reduction is the first choice); (3) continuous improvement in environmental

[1] EPA will also use this program to implement Section 403(a) of Executive Order 13148, which directs EPA to establish a federal government leadership program "to promote and recognize outstanding environmental management performance in agencies and facilities."

[2] For purposes of the Achievement Track, an EMS represents an organization's systematic efforts to meet its environmental requirements, including maintaining compliance and achieving performance objectives that may be related to unregulated aspects of the organization's activities.

performance, including areas not subject to regulations; and (4) sharing information about environmental performance and the operation of the EMS with the community.

Planning

• Identification of significant environmental aspects [3] and legal requirements, including procedures for integrating anticipated changes to the facility's requirements or commitments into the EMS.

• Measurable objectives and targets to meet policy commitments and legal requirements, to reduce the facility's significant environmental impacts, and to meet the performance commitments made as part of the facility's participation in the program (under Section A.2). In setting objectives and targets, the facility should consider the following criteria: preventing non-compliance, preventing pollution at its source, minimizing cross-media pollutant transfers, and improving environmental performance.

• Active, documented programs to achieve the objectives, targets, and commitments in the EMS, including the means and time-frames for their completion.

Implementation and Operation

• Established roles and responsibilities for meeting objectives and targets of the overall EMS and compliance with legal requirements, including a top management representative with authority and responsibility for the EMS.

• Defined procedures for: (1) Achieving and maintaining compliance and meeting performance objectives; (2) communicating relevant information regarding the EMS, including the facility's environmental performance, throughout the organization; (3) providing appropriate incentives for personnel to meet the EMS requirements; and (4) document control, including where documents related to the EMS will be located and who will maintain them.

• General environmental training programs for all employees, and specific training for those whose jobs and responsibilities involve activities directly related to achieving objectives and targets and to compliance with legal requirements.

• Documentation of the key EMS elements, including the environmental policy, significant environmental aspects, objectives and targets, a top management representative, compliance audit program, EMS audit program, and overall EMS authority.

• Operation and maintenance programs for equipment and for other operations that are related to legal compliance and other significant environmental aspects.

• An emergency preparedness program.

Checking and Corrective Action

• An active program for assessing performance and preventing and detecting non-conformance with legal and other requirements of the EMS, including an established compliance audit program and an EMS audit program.

• An active program for prompt, corrective action of any non-conformance with legal requirements and other EMS requirements.

Management Review

Documented management review of performance against the established objectives and targets and the effectiveness of the EMS in meeting policy commitments.

Although a third-party audit of the EMS is not necessary to qualify for the Achievement Track, a facility is asked in the application form if it has undergone such an audit. If it has not, it will have conducted a self-assessment. A facility will retain EMS documentation and provide a summary of its performance, including performance against objectives and targets, and a summary of the results of compliance and EMS audits, in its Annual Performance Report (discussed in Section C.4).

2. Demonstrated Environmental Achievements and Commitment to Continued Improvement

A facility will demonstrate specific environmental achievements and commit to continued improvements in its environmental performance. The framework for reporting on performance is based on the Global Reporting Initiative (GRI), which EPA also has used in Region I's StarTrack program. This framework distinguishes two levels of performance: Categories and aspects. A category is a class of environmental impacts (*e.g.,* water discharges). An aspect is an element of an organization's activities, products, or services that can interact with the environment (*e.g.,* discharges of heavy metals). EPA's approach to reporting is consistent not only with the GRI but with generally accepted EMS practice.

The categories and aspects for use in the Achievement Track program are listed in the Application Instructions for the Achievement Track (the Environmental Performance Table) and are available on the Performance Track web site (http://epa.gov/performancetrack). Three of the categories in the Table relate to the use of resources. They are energy use, water use, and materials use. Four of the categories relate to the negative effects of activities or processes. These include air emissions, waste generation, water discharges, and accidental releases. The final two categories relate to efforts to preserve or restore resources and to the environmental performance of products. Within each category, EPA has listed one or more environmental aspects that a facility may choose from in reporting on its performance.

EPA will not specify which categories and aspects a facility should select in making its performance commitments. However, the facility's future performance commitments need to be closely tied to the significant environmental aspects and the related objectives and targets as identified in its EMS. In addition, the facility should take the following factors into account in selecting categories and aspects for future performance commitments:

• Local or regional environmental concerns or priorities;

• Cross-media impacts of performance improvements; and

• Progress that can be made through pollution prevention.

Each applicant will demonstrate past achievements and commit to and report on future improvements. To demonstrate past performance, a facility is asked to select at least two environmental aspects from any of the categories in the Environmental Performance Table and to describe the improvements in its performance during the current and preceding one year. Small facilities have the option of documenting improvement for at least one environmental aspect from any category.[4] Facilities are encouraged to

[3] An environmental aspect is an ''element of an organization's activities, products, or services that can interact with the environment. Facilities are asked to use their list of significant environmental aspects in selecting performance commitments under this program (see Section A.2).

[4] EPA recognizes that, depending on the nature and extent of a facility's operations, a small facility may have fewer environmental aspects as well as more limited resources for measuring and committing to specific improvements in performance. For purposes of this program, a facility will be considered to be a ''small'' facility if the company as a whole is a small business as defined by the Small Business Administration (see FR 30386, Vol. 65, No 94, May 15, 2000) and if the facility itself employs fewer than fifty full-time equivalent employees. A facility will self-certify as to its status as a small business in the application for admission to the Achievement Track. If a facility is part of a larger company, it is the larger company

Continued

document performance achievements beyond the minimum.

In making future performance commitments, facilities should select at least four environmental aspects, drawn from two or more categories. Small facilities should select at least two aspects from two or more categories. Again, facilities are encouraged to commit to more than the minimum. These commitments should cover the three years that the facility will participate in the Achievement Track (the standard term for participation). The aspects selected for past and future performance may or may not be the same, depending on the facility's priorities and the status of its performance improvement efforts.

In documenting past achievements and committing to continued improvement, a facility will not rely on any actions that represent compliance with existing legal requirements at the federal, state, tribal, or local levels. These improvements will represent actions taken by a facility that go beyond existing legal requirements. A facility will be asked to describe its progress in meeting these commitments in an Annual Performance Report (See Section C.4).

There will be no absolute or relative level of improvement in either past or future performance needed to qualify for the program. EPA is asking each facility to document and commit to a level of performance that is consistent with its own situation, capabilities, and goals. However, each facility is encouraged to commit to significant improvements that it is willing to justify publicly as a participant in the Achievement Track.

EPA encourages each facility to use the results of its participation in EPA, state, and other partnership programs to document its achievements in improving performance. Participation in a partnership program would not on its own qualify a facility, but improvements that occur in the context of such a program would. For example, as a result of participation in EPA's WasteWise, ClimateWise, WAVE (Water Alliances for Voluntary Efficiency), Design for the Environment, or Metal Finishing Strategic Goals programs, a facility may be able to document past performance and commit to future improvement. EPA's Partnership Programs coordinators will advise facilities on the best ways to link efforts in these programs with participation in the Achievement Track.

as a whole that needs to meet the Small Business Administration definition.

3. Public Outreach and Performance Reporting

A facility will demonstrate its commitment to public outreach and report periodically on its performance. There is no standard set of outreach activities, beyond what is required in the Annual Performance Report. Each facility's approach to community reporting beyond this Report will depend on its size, scale of operations, and setting.

EPA expects that applicants will already have established a public outreach program. For example, participants in the Responsible Care program or endorsers of the CERES (Coalition for Environmentally Responsible Economies) principles typically have outreach programs that may include a community advisory panel, newsletters, performance reporting, sponsorship of community activities, and other outreach activities. Many small facilities have adopted lower-cost but effective outreach programs.

In the application, each facility will be asked to describe its activities and plans in three areas: identifying and responding to community concerns; informing community members of important matters that affect them; and reporting on the performance of its EMS and other performance commitments. The facility also will be asked to provide a short list of community/local references who are familiar with the facility and to list any ongoing citizen suits against the facility.

During its evaluation process, EPA will list the facility as an applicant on the Performance Track web site. If a facility is accepted, EPA will list it as a participant and make a copy of its application available to the public.

Identifying and Responding to Community Concerns

A facility should be able to demonstrate that it has established mechanisms for identifying and responding to local concerns regarding the environmental effects of its operations. Examples are concerns about emissions, odors, traffic congestion, water discharges, and emergency warnings. At a minimum, a small facility should be able to document that it has designated a point of contact with direct access to facility management and has adopted procedures for responding to questions or concerns of local residents.

Other typical efforts could include a designated community liaison official, periodic public meetings or open houses, and similar mechanisms. The level of public outreach would depend not only on the size of the facility, but also on the degree of community interest and the environmental effects of the facility's operations.

Informing Community Members of Important Matters That Affect Them

Each applicant should describe the mechanisms it uses to inform the community of important issues related to the facility's environmental performance. Many of the mechanisms for identifying and responding to local concerns may meet this objective as well. Open houses, community meetings, web pages, advisory panels, or customer displays could be especially appropriate. Again, these efforts should be appropriate to a facility's size, operations, and setting.

Reporting on the Facility's Performance Commitments

Whatever means a facility employs for community outreach, it should explain specifically how it provides the public with the environmental performance information that it is committed to reporting (described in Section A.2 above). Each facility will provide this information to the local community in its Annual Performance Report.

4. Record of Sustained Compliance With Environmental Requirements

A facility will have a record of compliance with environmental laws and be in compliance with all applicable environmental requirements at the time of application. The facility will maintain its compliance for the duration of its participation in the Achievement Track.

In evaluating the compliance record of an applicant, EPA, along with its state partners, will consult available databases and enforcement information sources. The scope of this screen and the screening criteria are based on the guidelines presented in the Agency's *Compliance Screening for Partnership Programs Guidance*, [5] with certain design changes appropriate for this program. EPA may later add to or modify these criteria, as needed, and as it develops the National Environmental Stewardship Track.

Participation in the Achievement Track will not be appropriate if the compliance screen shows any of the following, under federal or state law.

Criminal Activity

- Corporate criminal conviction or plea for environmentally-related

[5] This guidance is available at http://es.epa.gov/oeca/oc/polover.pdf.

violations of criminal laws involving the corporation or a corporate officer within the past 5 years.

• Criminal conviction or plea of employee at the same facility for environmentally-related violations of criminal laws within the past 5 years.

• Ongoing criminal investigation/prosecution of corporation, corporate officer, or employee at the same facility for violations of environmental law.

Civil Activity

• Three or more significant civil violations at the facility in the past 3 years.[6]

• Unresolved, unaddressed Significant Non-compliance (SNC) or Significant Violations (SV) at the facility.

• Planned but not yet filed judicial or administrative action at the facility.

• Ongoing EPA- or state-initiated litigation at the facility.

• Situation where a facility is not in compliance with the schedule and terms of an order or decree.

In addition, EPA may also consider whether there are significant problems or a pattern of non-compliance in an applicant's overall civil or criminal compliance history.

EPA encourages each facility to assess its own compliance record under these criteria as it makes a decision regarding application to the Achievement Track.

B. Incentives for Participation

To promote participation in the program and the environmental and other benefits that will come with it, EPA intends to offer several incentives and is considering others.

In EPA's March proposal on the Performance Track program, which was the subject of several public meetings and written comment, EPA outlined considerations that would influence its choice of incentives for the Achievement Track. EPA has continued to rely on these considerations. EPA has excluded incentives that would involve a relaxation of substantive standards of performance or that would require statutory change. Many comments indicated a preference for incentives that apply broadly to different types of facilities; that reduce the reporting, monitoring, and other operating costs of the current system; and that can be implemented nationally.

EPA believes it is important to offer the kinds of incentives described here for several reasons. First, the achievements of these facilities deserve public recognition. Second, some of the reporting and other administrative requirements that are necessary for other facilities may not be needed for participants that have met the entry criteria for the Achievement Track. Third, these incentives may offer the opportunity for qualifying facilities to apply their resources to achieving even better environmental performance. And finally, the availability of these incentives should encourage other facilities to make environmental improvements that will enable them to qualify for participation.

EPA intends to offer several incentives that will be available to participants at the time they enter the program. These include recognition, access to information sources, and program incentives that do not require revision of existing guidance documents or rulemaking. Specifically, these include:

• An Achievement Track facility will be a low priority for inspection targeting purposes.

• As a discretionary factor in the assessment of penalties, EPA will consider a facility's good faith participation in the program as an indication of its good faith efforts to comply.

• Use of the Achievement Track logo at a participating facility, in communications with outside parties about the facility, and in other ways (although not in endorsing products).

• Listing on the Performance Track web site and other EPA sites, in promotional materials related to Partnership Programs, in feature articles, and in case studies that profile accomplishments.

• Special recognition for Charter Members at an event to be held in late fall of 2000.

• Participation in Achievement Track peer exchanges, including special invitation conferences, workshops, and networks, in which facilities share successful practices and receive recognition.

• Opportunities to be featured in a Performance Practices Database EPA is developing.

• Information sessions with senior EPA officials to share lessons learned, help design the Stewardship Track, and improve the Achievement Track.

Some incentives that EPA is considering would require actions by the Agency to modify existing guidance documents or administrative procedures; the incentives will be available when those steps have been completed. In some cases, other steps also must be taken before a facility may take advantage of the incentives being considered. For example, responsibility for implementing parts of many environmental programs is delegated to states. In such cases, states may need to revise regulations, agree on a revised delegation package, reissue permits, or take other actions.

EPA would make the following incentives available to facilities in the Achievement Track through administrative actions (other than rulemaking) or by issuing or amending guidance documents:

• More direct access to the reduced reporting and monitoring available under the Discharge Monitoring Reports (DMRs) provisions of the Clean Water Act. EPA intends to modify the current (1996) burden reduction guidance for DMRs to allow Achievement Track membership to substitute for certain screening requirements set out in that document.

• Greater flexibility under the Best Available Control Technology (BACT) requirement of the Clean Air Act. For Achievement Track facilities that may not be able to begin construction within 18 months of their BACT determination, EPA would encourage states to extend the applicability period through a simplified control technology review. EPA intends to recommend that the states adopt this simplified review.

• More advantageous terms for Achievement Track facilities under the State Revolving Funds (SRF) program of the Clean Water Act, such as reduced loan rates and extended payback terms. EPA intends to provide materials to states that will encourage them to incorporate this change into their SRF policies.

• A greater opportunity for expedited review of new reduced risk pesticide products under the Federal Insecticide, Fungicide and Rodenticide Act. If all of a pesticide registrant's U.S. pesticides manufacturing facilities are participants in the Achievement Track, this participation would become an additional factor that EPA would use in granting an expedited review. EPA would add participation to the list of factors through administrative action.

EPA also is considering changes to its current regulatory programs to offer incentives to Achievement Track facilities. These incentives will be developed under a coordinated Performance Track rulemaking. They include:

• Reducing the frequency of reports required under the Maximum Achievable Control Technology (MACT) provisions of the Clean Air Act. In this incentive, EPA intends to reduce significantly the frequency of required

[6] The term ''significant'' with respect to violations or non-compliance refers to how the violation is characterized under the applicable media enforcement response policy, available at http://www.epa.gov/oeca/main/strategy/.

MACT reporting for all Achievement Track facilities. EPA also intends to further reduce reporting reductions for Achievement Track facilities that achieve MACT or better emission levels through pollution prevention methods such as process changes. EPA intends to accomplish this through a single generic rulemaking covering all MACT standards.

• Streamlined monitoring, reporting, and other procedural requirements for Publicly-Owned Treatment Works (POTWs) in the Achievement Track.

• Reducing the reporting costs for POTWs in the Achievement Track that must publish notices of violations by facilities that use their services. These POTWs would be allowed to use the Internet rather than paid newspaper notices.

• The opportunity for Achievement Track facilities to consolidate reporting under various environmental statutes into a single report. EPA expects that this consolidated reporting would be phased in with a pilot program, and potentially followed with a larger program. This incentive may require rulemaking.

Finally, EPA is determining the feasibility of an additional set of incentives or activities. These include the following provisions:

• The opportunity for expedited review for companies that submit Premanufacturing Notifications (PMNs) under the Toxic Substances Control Act, if the substance is manufactured in an Achievement Track facility and the applicant uses EPA's Pollution Prevention Framework in preparing the PMN submission. This incentive would require rulemaking.

• Granting authority for Achievement Track facilities to accumulate wastes for up to 180 days (double the current limit of 90 days) before triggering the requirement for obtaining a Resource Conservation and Recovery Act (RCRA) Part B storage permit. This incentive would require rulemaking.

EPA will identify and evaluate other incentives that may be made available to participants in the Achievement Track, and later in the Stewardship Track, as the program matures. These would be implemented through the required administrative processes, including notice and comment rulemaking when that is appropriate.

C. Implementation

Application materials are available either from the Performance Track web site or from the Performance Track Information Center.[7] The implementation process is based on the following principles:

• Fair, effective, and timely evaluation of applications;

• Timely response to concerns of participants and community stakeholders;

• Close cooperation among EPA offices and with state and tribal agencies;

• Ongoing evaluation of the Achievement Track, with the goal of continuous improvement as it matures; and

• Low transaction costs, consistent with achieving the goals of the Achievement Track.

This section provides an overview of EPA's approach to implementing the Achievement Track. It covers: (1) The application and notification process; (2) continued compliance; (3) the protocol for site visits; (4) the Annual Performance Report; and (5) removal from the program.

1. Application and Notification Process

A facility formally applies for the Achievement Track by submitting the application form. EPA uses the information on the form (with the appropriate self-certifications), the results of the compliance screening, and information from consultations with EPA regional offices and state agencies in evaluating a facility's qualifications. EPA will not conduct site visits as a part of the formal selection process. However, EPA regional offices and state agencies may, on occasion, request a program site visit with an applicant when more information on a facility's qualifications is needed.

EPA will first review the application for completeness and notify the facility when the substantive review has begun. An EPA committee, made up of representatives from headquarters and regional offices, will conduct a substantive review. Through the appropriate regional office, EPA will consult with the state in which the facility is located to help determine the facility's eligibility for the Achievement Track. As part of this review, EPA will also conduct a compliance screen to evaluate the facility's past performance record.

A facility that is accepted into the Achievement Track will receive written notification from EPA. EPA will announce that a facility has been accepted through the Performance Track web site. A facility will be accepted for participation in the program for a period of three years. A facility that is not accepted will receive a brief explanation for EPA's decision.

Once a facility is accepted, it becomes eligible for the incentives offered in the Achievement Track. It will become eligible for other incentives as they are formally added to the program. EPA's standard acceptance letter will define the specific incentives available at the time of acceptance and the conditions under which they are granted or may be used (*e.g.,* the conditions for the use of the program logo). EPA will notify participants of other incentives as they become available.

A facility should understand that its participation in the Achievement Track program is discretionary with EPA, that it may not challenge a decision to be rejected or removed from the program, and that the fact of its participation is not relevant to any issue of law or fact in any legal enforcement proceeding for violations of environmental requirements.

The first application period for the Achievement Track will begin on July 5, 2000 and end on September 30, 2000. Facilities that submit applications by September 1, 2000 and are accepted will qualify as Charter Members of the Achievement Track. These will be announced in a special recognition ceremony in late November 2000. All other selections from the first application period will be announced in December 2000. EPA plans to open a second application period in the first quarter of 2001.

2. Continued Compliance

This program recognizes and promotes improved environmental performance, but is built on a foundation of sustained compliance. There are several components of this program that help to assure continued compliance, such as an EMS that meets specified criteria (including compliance with legal requirements), compliance self-audits, and an annual certification that the facility is meeting the program entry criteria and is continuing to maintain compliance. In recognition of these and other program elements, and of good faith participation in this program, facilities will not be subject to greater enforcement scrutiny solely as a result of their participation in the Achievement Track.

Compliance issues may arise from time to time at an Achievement Track facility. This notice describes how Achievement Track facilities can quickly and efficiently address these instances. In fact, EPA expects that a vigorous, performance- and compliance-

[7] The Performance Track Information Center can be contacted through email at ptrack@indecon.com or by telephone at 1–888–339–PTRK (7875).

focused EMS will identify for prompt correction any instances of actual or potential non-compliance. In general, facilities are rewarded for their self-identification, correction and prompt disclosure of violations through penalty mitigation under EPA's Audit Policy, and Achievement Track participants will likewise be able to avail themselves of this compliance incentive, under the conditions specified in the Policy. In addition, EPA recognizes that violations may be discovered during the course of an on-site Achievement Track program visit. EPA similarly will allow the application of the Audit Policy to violations discovered in this manner, provided that the facility could not reasonably be expected to have known about or identified the violation prior to the on-site visit. Finally, in the unlikely event that an Achievement Track facility becomes subject to an enforcement action, EPA will consider, as a discretionary factor in the assessment of penalties, the facility's good faith participation in the program as an indication of the facility's good faith efforts to comply.

3. Protocol for Site Visits

To evaluate the effectiveness of the Achievement Track program, EPA will conduct program site visits with a limited number of facilities each year. During a program site visit, a facility will make available materials that directly support its participation in the Achievement Track, including the EMS, progress on performance commitments, and information on community outreach. The protocol for arranging and conducting these site visits is:

- A facility will receive notice in advance of the visit and have an opportunity to schedule the timing with EPA to accommodate facility production schedules and deadlines.
- The scope of the visit will be to assess the facility's implementation of the Achievement Track program, including its EMS, its progress in meeting its performance commitments, and its public outreach efforts.
- The visit may include representatives from EPA headquarters, the EPA regional office, the state environmental agency, and (subject to the approval of the facility) possibly from the local community and other Achievement Track facilities.
- The visit will be conducted according to a written protocol that will be made available to the facility well in advance of the visit. EPA expects that the visits would take from a few hours to a full working day, depending on the size and complexity of the facility.
- EPA will visit up to twenty percent of participants in a given year. Facilities may request a program site visit from EPA.

4. Annual Performance Report

To remain in the Achievement Track, a participant will complete and submit an Annual Performance Report to EPA and the public. The purposes of this report are to provide information on the effectiveness of the program, to demonstrate the facility's progress toward its performance commitments, and to ensure that the facility is maintaining its qualifications under the program. This brief summary report may be submitted electronically or in writing. A draft format will be available on the Performance Track web site. The public will have an opportunity to comment on the format before it becomes final.

The Annual Performance Report will include the following categories of information:

- Summary of the EMS performance (based on objectives and targets), including a summary of the EMS and compliance audits performed and any corrective action taken;
- Brief progress report on the facility's performance commitments;
- Summary of the facility's public outreach activities; and
- Self-certification that the participant continues to meet the Achievement Track criteria.

The report will be due approximately one year after acceptance into the program, and annually thereafter. EPA will notify the facility of the due date in the acceptance letter. EPA is not planning to prescribe a means for public transmission of the report but will provide a menu of options from which participants may choose (*e.g.,* company web site, publication in local press, mailings). EPA is considering providing specialized assistance in this area for small facilities.

A facility should maintain on-site the supporting documentation used to prepare its Annual Performance Report and make this documentation available to EPA upon EPA's request.

5. Removal From the Achievement Track

There may be cases when a facility encounters significant performance problems that may warrant its removal from the Achievement Track. At EPA's discretion, a participant may be removed from the Achievement Track for such reasons as falsifying information in the application or Annual Performance Report, failing to file an Annual Performance Report, misrepresenting environmental performance in advertising or marketing claims, or for compliance problems that would be seen as inconsistent with the Achievement Track entry criteria.

EPA expects that a participating facility will continue to meet the Achievement Track criteria, such as maintaining its EMS and conducting appropriate public outreach, while it is in the program. Failure to meet the EMS and public outreach commitments could constitute grounds for removal. EPA also expects that a facility will strive to meet the performance goals stated in its application to the program. However, facilities are encouraged to establish ambitious goals, which they may not always be able to meet. Inability to meet the facility's performance commitments (as discussed under Section A.2) will not, in and of itself, be a cause for removal from the program. However, an inability to make any progress or a decline in facility performance could result in removal from the Achievement Track.

Should EPA decide that it may be necessary to remove a facility from the Achievement Track, EPA intends to provide the facility with notice of its intention. The facility will be allowed thirty days to respond by taking corrective measures. If corrective measures resolve the issues, EPA will withdraw its notice of intention. A facility may also withdraw from the program at any time by notifying EPA of its intent in writing. Once an entity leaves the Achievement Track, voluntarily or at EPA's discretion, it must relinquish the continued use of any and all incentives associated with participation in the Achievement Track.

D. The State Role and Relationship

The National Environmental Achievement Track will rely on EPA's partnership with state environmental agencies (and, where applicable, Indian tribes) for its long term success. State agencies run many federally-delegated programs and are responsible for important incentives (*e.g.,* changes in permitting, reporting, and inspection policies). States are likely to have more frequent contact with facilities, making each state's relationship with program participants key to overall success. In addition, many states have programs with similar objectives—such as a commitment to improved environmental performance (beyond what is required by law), EMS use, public involvement, and a strong compliance history. Several state programs start with tiers that may serve as an ''on-ramp'' to the Achievement Track.

EPA has consulted extensively with the states sponsoring programs similar to the Achievement Track, and with many other states that do not have such a program but that are interested in the concept. In May 2000, EPA brought 20 state officials together in a national forum to discuss program design and implementation. Senior EPA officials have also visited or spoken with commissioners from states that are leading the way in offering recognition and incentives to top performers.

EPA will form a joint committee of selected state and EPA officials to monitor and improve this program as it is implemented. Based on discussions with state leaders, EPA has developed specific principles to guide this relationship. EPA will:

- Work closely with designated state contacts, and include states in decisions on facilities within their jurisdiction, with the objective of having no surprises between EPA and the state;
- Minimize duplication with state efforts and build on existing state programs to the extent possible;
- Respect state programs with different policy and environmental objectives, and work with states to minimize inconsistencies with national objectives and actions;
- Encourage participation by all the states, tailored to state interests and capabilities; and
- Work jointly with the states to monitor implementation and seek continuous improvement in the program.

All states will be affected in some way by this program. However, the degree of involvement by each state will vary, based on the number of applicants and the level of state interest. EPA assumes, at a minimum, that states will want to be informed of actions relating to facilities under their jurisdiction and to have the opportunity to conduct their own compliance screening. Conducting even minimal screening and providing a central point of contact poses a new workload on state programs. EPA will seek to provide financial and technical assistance to states.

EPA has been working closely with states that have similar programs, and will continue to work with them to align and integrate national and state programs as much as possible. EPA envisions establishing a form of reciprocity for all equivalent state and national elements. For each element designated as equivalent, qualification at the state level would mean automatic qualification at the national level, and vice versa. EPA welcomes the interest expressed by many states that want to participate actively in the national program. These states can also play a major role in informing participants in existing programs of the opportunities and eligibility requirements of the Achievement Track, as well as in evaluating and monitoring the national program over time.

EPA will work closely with states that are establishing new programs, to achieve maximum compatibility between state and national efforts. For example, EPA could facilitate peer exchanges among states, and facilitate contact with EPA Performance Track and program office personnel. EPA will work with these states to develop complementary application procedures.

EPA will invite all states, including those without similar programs, to support the national program as much as they are able. In these cases, EPA will consider providing support for compliance screening and selected site visits in the event that a state cannot perform these activities. At a minimum, these states will be asked to designate a contact to receive notification of EPA actions.

In the near term, after consulting with states, EPA will decide which applicants qualify for the national program. As the program matures, EPA will work with the states to determine the most appropriate long term state role in implementing the program.

E. Small Business Participation

Any program for improving environmental performance must aim for participation by small businesses and other small entities, such as local governments. EPA is making every effort to make the Achievement Track accessible for small entities. This effort is reflected in several aspects of the design. For example, depending on the nature and extent of a facility's operations, the EMS for a small facility may be simpler than one for a larger, more complex facility. For the same reason, a small facility may have fewer environmental aspects. In addition, a small facility is not asked to make as many performance commitments as other participants.

EPA has held numerous discussions with representatives of small business interests and is encouraging participation by qualified small businesses and their facilities. In addition, EPA may create a more active and focused developmental program for small businesses and other small entities, with the goal of helping to expand their capacities for participation in the Achievement Track and, later, in the Stewardship Track. This program would build upon existing EPA activities, such as the Sustainable Industry Program, Design for the Environment, EMS projects with local governments, other partnership programs, and compliance assistance programs for small entities.

III. The National Environmental Stewardship Track

In the National Environmental Stewardship Track, to be implemented in 2001, EPA envisions a higher level of performance and commitment than in the Achievement Track. The Stewardship Track would also involve more substantial recognition and flexibility for participating facilities and companies. Applicants for the Stewardship Track would be expected to have met the qualifications of the Achievement Track but also to have demonstrated their qualifications in other areas.

EPA considers it appropriate to develop a Stewardship Track that allows for participation by companies as well as individual facilities within a company. These could be designed as two related but separate programs or as an integrated one that links facility- and company-level performance.

The Stewardship Track could also differ from the Achievement Track by incorporating differences among economic sectors in the program's design. In this aspect, EPA will build upon sector-based initiatives already underway, such as Design for the Environment and the Sustainable Industry Program.

EPA intends to develop the Stewardship Track while it is implementing the Achievement Track. In developing the Stewardship Track, EPA intends to follow these steps:

- Hold focus group discussions with stakeholders to discuss design elements, including appropriate incentives.
- Assess existing sector initiatives focused on improving environmental performance among sectors to determine their applicability.
- Hold public meetings to present and discuss the preliminary program design.
- Release a draft document for public comment.
- Make a formal announcement of the Stewardship Track program.
- Solicit the initial round of applications.

IV. The EPA Administrator's Environmental Awards Program

Concurrent with the launch of the National Environmental Performance Track program, EPA is establishing an Administrator's environmental awards program to recognize the highest level of environmental performance and

leadership in the business sector. The awards will be given once a year to a select number of organizations whose exemplary environmental accomplishments deserve special attention and recognition. Building on the tenets of the Performance Track, the Administrator's environmental awards will spotlight companies whose innovations, technological advancements, or integrated management systems achieve significant breakthroughs in environmental performance and management. The criteria for determining winners and the selection process will be announced in the spring of 2001, with the first award presented approximately six months later.

Dated: June 28, 2000.

Richard T. Farrell,

Associate Administrator, Office of Policy and Reinvention.

[FR Doc. 00–17070 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00296; FRL–6596–9]

National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A meeting of the National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) will be held on July 26–28, 2000, in Washington, DC. At this meeting, the NAC/AEGL Committee will address, as time permits, the various aspects of the acute toxicity and the development of Acute Exposure Guideline Levels (AEGLs) for the following chemicals: Acetonecyanohydrin; acrolein; acrylic acid; Agent GA (tabun): ethyl N,N-dimethylphosphoramidocyanidate; Agent GB (sarin): O-isopropyl methylphosphonofluoridate; Agent GD (soman): O-pinacolyl methylphosphonofluoridate; Agent GF: O-cyclohexyl-methylfluorophosphonate; Agent VX: O-ethyl S-(2-diisopropylaminoethyl) methyl-phosphonothiolate; allyl alcohol; boron trichloride; chlorine trifluoride; diborane; epichlorohydrin; ethyleneimine; ethylene oxide; furan; hydrogen cyanide; hydrogen fluoride; iso-butyronitrile; methacrylonitrile; methanol; peracetic acid; perchloromethyl mercaptan; phosgene; propionitrile; propyleneimine; propylene oxide; tetrachloroethylene; uranium hexafluoride; and xylene. There will also be a discussion of public comments as applicable and the setting of interim AEGL values for the following chemicals: Allylamine; cis- and trans-crotonaldehyde; cyclohexylamine; dimethyldichlorosilane; ethylenediamine; hydrogen chloride; iron pentacarbonyl; methyl isocyanate; methyltrichlorosilane; nickel carbonyl; phosphine; and 2,4- and 2,6-toluene diisocyanate. There may also be a discussion regarding any further National Academy of Sciences/National Research Council/Committee on Toxicology/AEGL Subcommittee comments on the NAC/AEGL Committee Standing Operating Procedures.

DATES: A meeting of the NAC/AEGL Committee will be held from 10 a.m. to 5:30 p.m. on July 26; from 8:30 a.m. to 5:30 p.m. on July 27, 2000; and from 8:30 a.m. to 1 p.m. on July 28, 2000.

ADDRESSES: The meeting will be held at the U. S. Department of Transportation, DOT Headquarters, Nassif Bldg., Rooms 8236–8240, 400 7th St., SW., Washington, DC (L'Enfant Center Metro stop). Visitors should bring a photo ID for entry into the building and should contact the Designated Federal Officer (DFO) to have their names added to a security entry list. Visitors must enter the building at the Southwest Entrance/Visitor's Entrance, 7th and E Sts. quadrant.

FOR FURTHER INFORMATION CONTACT: *For general information contact:* Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404 and TDD: (202) 554–055; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Paul S. Tobin, DFO, Office of Prevention, Pesticides and Toxic Substances (7406), 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–1736; e-mail address: tobin.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document or Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPPTS–00296. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 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.

II. Meeting Procedures

For additional information on the scheduled meeting, the agenda of the NAC/AEGL Committee, or the submission of information on chemicals

to be discussed at the meeting, contact the DFO listed under **FOR FURTHER INFORMATION CONTACT.**

The meeting of the NAC/AEGL Committee will be open to the public. Oral presentations or statements by interested parties will be limited to 10 minutes. Interested parties are encouraged to contact the DFO to schedule presentations before the NAC/AEGL Committee. Since seating for outside observers may be limited, those wishing to attend the meeting as observers are also encouraged to contact the DFO at the earliest possible date to ensure adequate seating arrangements. Inquiries regarding oral presentations and the submission of written statements or chemical-specific information should be directed to the DFO.

III. Future Meetings

Another meeting of the NAC/AEGL Committee is tentatively scheduled for October 2000. The exact date, location of this meeting, and chemicals to be discussed will be published in a future **Federal Register** notice.

List of Subjects

Environmental protection, Chemicals, Hazardous substances, Health.

Dated: June 28, 2000.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 00–17074 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6730–4]

Notice of Open Meeting of the Environmental Financial Advisory Board on August 7–8, 2000

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of the full Board in San Francisco, California on August 7–8, 2000. The meeting will be held at the World Trade Club, Ferry Building, in the International Room. The Monday, August 7 session will run from 9:00 a.m. to 5:00 p.m. and the August 8 session will begin at 8:30 a.m. and end at approximately 12 noon.

EFAB is chartered with providing analysis and advice to the EPA Administrator on environmental finance. The purpose of this meeting is to discuss progress with work products under EFAB's current strategic action agenda and to develop an action agenda to direct the Board's activities. Environmental financing topics expected to be discussed include: Financing Issues Related to the Office of Water's Gap Analysis, Environmental and Multi-State Revolving Funds, Cost-effective Environmental Management, Brownfields Redevelopment, and International Environmental Financing.

The meeting is open to the public, but seating is limited. For further information, please contact Vanessa Bowie, EFAB Coordinator, U.S. EPA on (202) 564–5186.

Dated: June 28, 2000.

Ronald Bachand,

Acting Deputy Comptroller.

[FR Doc. 00–17071 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00668; FRL–6567–6]

Pesticide Cumulative Risk Assessment Guidance; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: EPA will hold a public meeting to explain and answer questions concerning its draft guidance document entitled, ''Proposed Guidance on Cumulative Risk Assessment of Pesticide Chemicals that Have a Common Mechanism of Toxicity.'' Notice of availability of the draft guidance document was issued in the **Federal Register** of June 30, 2000. At the meeting, EPA will explain the hazard and exposure methodology in the proposed guidance. The meeting is intended for informational purposes only.

DATES: The meeting will be held on July 20, 2000, from 9:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at The National Rural Electric Cooperative Association, 4301 Wilson Blvd., Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Jean M. Frane, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 305–5944; e-mail address: frane.jean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does This Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug and Cosmetic Act (FFDCA), or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

II. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of the cumulative risk assessment guidance document from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for the cumulative risk assessment Guidance document under docket control number OPP–00668. In addition, the documents referred to in the framework notice, which published in the **Federal Register** on October 29, 1998 (63 FR 58038) (FRL–6041–5) have also been inserted in the docket under docket control number OPP–00557. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. How Do I Submit Comments on the Draft Guidance Document?

As described in Unit I.C. of the notice of availability on the draft guidance

document entitled,''Proposed Guidance on Cumulative Risk Assessment of Pesticide Chemicals that Have a Common Mechanism of Toxicity'' published in the **Federal Register** of June 30, 2000 (65 FR 40644) (FRL–6556–4), you may submit your comments through the mail, electronically, or in person. Please follow the detailed instructions for each method provided in the notice of availability. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–00658 in the subject line on the first page of your response.

IV. How Can I Request to Participate in This Meeting?

All interested persons may attend the meeting. No request to participate is needed. The meeting is informational only, with presentations followed by an opportunity for the public to ask questions to the EPA staff.

List of Subjects

Environmental protection, Administrative practice & procedure, Agricultural commodities, Pesticides and pests.

Dated: June 29, 2000.

Susan B. Hazen,

Acting Director, Office of Pesticide Programs.

[FR Doc. 00–17073 Filed 7–5–00; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

June 27, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 5, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1 A–804, 445 Twelfth Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0723.

Title: Public Disclosure of Network Information by Bell Operating Companies.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or other for profit.

Number of Respondents: 7.

Estimated Time Per Response: 50 Hours (avg.).

Total Annual Burden: 350 Hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Needs and Uses: Bell Operating Companies must make public disclosure of network information. This will prevent them from designing new network services or changing network technical specifications to the advantage of their own payphones.

OMB Control No.: 3060–0943.

Title: 47 CFR Section 54.809, Carrier Certification.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or other for profit.

Number of Respondents: 27.

Estimated Time Per Response: 1.5 Hours (avg.).

Total Annual Burden: 41 Hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: Annually.

Needs and Uses: Section 54.809 of the Commission's rules requires each price cap or competitive local exchange carrier that wishes to receive universal service support to file an annual certification with the Universal Service Administrator Company and the Commission. The certification must state that the carrier will use its interstate access universal service support only for the provision, maintenance, and upgrading of facilities and service for which the support is intended. The Commission and USAC will use the certification to ensure that carriers comply with section 254(e) of the Telecommunications Act of 1996.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17048 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

June 27, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 5,

2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, S.W., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0942

Title: In the Matter of Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service.

Form No.: N/A.

Type of Review: Extension.

Respondents: Business or other for profit.

Number of Respondents: 27.

Estimated Time Per Response: 473.5 Hours (avg.).

Total Annual Burden: 12,785 Hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Quarterly; Annually; Recordkeeping; Third Party Disclosure.

Needs and Uses: In CC Docket Nos. 96–262, 94–1, 99–249 and 96–45 (FCC 00–193), the Commission adopted an integrated interstate access reform and universal service proposal put forth by the members of the Coalition for Affordable Local and Long Distance Service (CALLS). The CALLS Proposal resolves major outstanding issues concerning access charges. In order to implement the CALLS Proposal, the Commission adopted information collection requirements: (1) For price cap LECs to modify their annual tariff filings to conform with the interstate access reforms in the CALLS Proposal; (2) for price cap LECs to and competitive LECs seeking to receive support from the interstate access universal service support mechanism to file line counts by zone and customer class, revenue data and information regarding zone boundaries. Competitive LECs seeking funds also have to file USAC line counts by zone and customer class; (3) for price cap LECs that elect to file cost support information to calculate their access rates.

OMB Control Number: 3060–0932.

Title: Application for Authority to Make Changes in a Class A TV Broadcast Station.

Form Number: FCC 301–CA.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit; Not-for-profit institutions; state, local or tribal government.

Number of Respondents: 300.

Estimated time per response: 15–20 hours (time is split between contractors and respondents, depending on type of application).

Frequency of Response: Reporting, on occasion.

Total annual burden: 2,100.

Total annual costs: $1,709,400.

Needs and Uses: The FCC 301–CA is to be used in all cases by a Class A television station licensees seeking to make changes in the authorized facilities of such station. The FCC 301–CA requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions provide additional information regarding Commission rules and policies.

Class A applicants are also subject to third party disclosure requirement of Section 73.3580 which requires local public notice in a newspaper of general circulation of the filing of all applications for major changes in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

The FCC 301–CA is designed to track the standards and criteria which the Commission applies to determine compliance and to increase the reliability of applicant certifications. They are not intended to be a substitute for familiarity with the Communications Act and the Commission's regulations, policies, and precedent.

OMB Approval No.: 3060–0928.

Title: Application for Class A Television Broadcast Station Construction Permit or License.

Form No.: FCC 302–CA.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit, not-for-profit institutions.

Number of Respondents: 958.

Estimated Hours Per Response: 2 hours.

Frequency of Response: on occasion.

Cost to Respondents: $210,760.

Estimated Total Annual Burden: 1,916.

Needs and Uses: FCC Form 302–CA is used by LPTV stations that seek to convert to Class A status. The FCC Form 302–CA requires a series of certifications by the Class A applicant as prescribed by the CBPA. Licensees are required to provide weekly announcements to their listeners informing them that the applicant has applied for a Class A license, and announcing the public's ability to comment on the application prior to Commission action. The data is used by FCC staff to confirm that the station has met the eligibility standards to convert their licenses to Class A status. Data is then extracted from FCC Form 302–CA for inclusion in the subsequent license to operate the station.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17050 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

June 28, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before September 5, 2000. If you anticipate that you will be submitting comments, but find it

difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, 445 12th Street, SW., Room 1–A804, Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0895.

Title: Numbering Resources Optimization, CC Docket No. 99–200.

Form No.: FCC Form 502.

Type of Review: Extension.

Respondents: Business or Other for Profit; State, Local or Tribal Government.

Number of Respondents: 2780.

Estimated Time Per Response: 57 Hours (avg.).

Total Annual Burden: 158,500 Hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $6,490,000.

Frequency of Response: On occasion; Semi-annually; One-time Requirement; Recordkeeping; Third Party Disclosure.

Needs and Uses: The ten digit North American Plan currently being used by the United States and 19 other countries is rapidly being depleted. Management of this resource is impaired by a lack of uniform data. Under the Communications Act of 1934, as amended, the FCC was given ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.'' Pursuant to that authority the Commission conducted a rulemaking that, among other things, addressed regular reporting on numbering use by United States carriers. In its Report and Order in CC Docket No. 99–200, In the Matter of Numbering Resource Optimization (rel. March 31, 2000), the Commission found that mandatory data collection is necessary to efficiently monitor and manage numbering use. All carriers that receive numbering resources from the North American Numbering Plan Administrator (NANPA) or other receiving numbering resources from a Pooling Administrator in thousands blocks must report forecast and utilization data semi-annually to the NANPA. Applications for initial numbering resources must include documented proof that the applicant is authorized to provide service in the area for which the numbering resources are requested and that the application is or will be capable of providing service within 60 days of the numbering resources activation date. Applications for growth numbering resources must include a Months-To-Exhaust Worksheet. To facilitate auditing by the NANPA and by state commissions in the future, carriers are required to maintain detailed internal records of their number usage. State commission must provide notification to reduce the reporting frequency for NPAs in their states to annual. Carriers that open a clean block prior to utilizing in its entirety a previously-opened thousands-block must make a demonstration to the state commission. States requesting pooling authority must include a showing of specific criteria in their petitions. Carriers are requested to submit cost support data so that the Commission can determine the cost associated with thousands-block number pooling. The data collected will be used by the Commission, state regulatory commissions, and the NANPA to monitor numbering resource utilization by all carriers using the resource and to project the dates of area code and NANP exhaust.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17051 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

June 28, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 7, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0049.

Title: Restricted Radiotelephone Operator Permit.

Form No.: FCC Form 753.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households.

Number of Respondents: 19,000.

Estimated Time Per Response: 20 minutes or .33 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 6,270 hours.

Total Annual Cost: $540,000.

Needs and Uses: Applicants must possess certain qualifications in order to qualify for a radio operator license. The data is submitted on FCC Form 753 aid the Commission in determining whether the applicant possesses these qualifications. This form is being revised to collect a FCC Registration Number (FRN) which is required from anyone doing business with the Commission.

The data will be used to identify the individuals to whom the license is issued and to confirm that the individual possesses the required qualifications for the license. If the data were not collected, it would be impossible to identify the person to whom the license was issued nor to determine whether the applicant were eligible for the license.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17049 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

June 26, 2000.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before August 7, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0127 or via the Internet at *lesmith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0031.

Title: Application for Consent to Assignment of Broadcast Station Construction Permit or License.

Form Number: 314.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; and not-for-profit institutions.

Number of Respondents: 1,591.

Estimate Time Per Response: 1 to 2 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual burden: 2,546 hours.

Total Annual Costs: $12,237,000.

Needs and Uses: Applicants must file FCC Form 314 and applicable exhibits/explanations when applying for consent to assignment of an AM, FM, or TV broadcast station construction permit or license and to comply with the third party disclosure requirements found in Section 73.3580. The applicant must also notify the FCC when an approved assignment of a broadcast station construction permit or license has been consummated. Furthermore, FCC Form 314 now requires applicants to file FCC Form 396–A when filing FCC Form 314. This complies with the Commission's Report and Order in MM Docket Nos. 98–204 and 96–16 which modified the Commission's broadcast and EEO rules and policies consistent with the D.C. Circuit Court's decision in Lutheran Church.

OMB Control Number: 3060–0032.

Title: Application for Consent to transfer Control of Entity Holding Broadcast Station Construction Permit or License.

Form Number: 315.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; and not-for-profit institutions.

Number of Respondents: 1,591.

Estimate Time Per Response: 1 to 2 hours.

Frequency of Response: On occasion reporting requirements; Third party disclosure.

Total Annual burden: 2,546 hours.

Total Annual Costs: $12,237,000.

Needs and Uses: Applicants must file FCC Form 314 and applicable exhibits/explanations when applying to transfer control of a corporation holding an AM, FM, or TV broadcast station construction permit or license, and comply with the third party disclosure requirements found in Section 73,3580. The applicant must also notify the FCC when an approved assignment of a broadcast station construction permit or license has been consummated. Furthermore, FCC Form 315 now requires applicants to file FCC Form 396–A when filing FCC Form 315. This complies with the Commission's Report and Order in MM Docket Nos. 98–204 and 96–16 which modified the Commission's broadcast and EEO rules and policies consistent with the D.C. Circuit Court's decision in Lutheran Church.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17052 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 00–207]

Establishing a Government-to-Government Relationship With Indian Tribes

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document reaffirms the Commission's respect for and commitment to the principles of tribal sovereignty and the federal trust responsibility, and establishes a government-to-government relationship between the Commission and federally-recognized Indian tribes. In an effort to embrace this unique relationship with and responsibility to Indian tribes, the Commission will endeavor to work with Indian tribes on a government-to-government basis to ensure that Indian tribes have adequate access to communications services, and will to the extent practicable consult with tribal governments prior to implementing any regulatory action or policy that will significantly or uniquely affect Indian tribes. Furthermore, this document calls for the FCC to endeavor to identify innovative mechanisms to facilitate tribal consultation and streamline its administrative processes and procedures to remove undue burdens on Indian tribes. In addition, the FCC will also assist Indian tribes in complying with Federal communications statutes and regulations, and educate Commission staff about the fundamental principles governing the relationship between Indian tribes and the federal government.

DATES: Effective June 23, 2000.

FOR FURTHER INFORMATION CONTACT: Steven Rangel at (202) 418–1700 or via internet at *srangel@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Policy Statement, FCC 00–207, adopted June 8, 2000; released June 23, 2000. The full text of the Commission's Policy Statement is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257) at its headquarters,

445 12th Street, SW, Washington, D.C. 20554, or may be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036, or may be reviewed via internet at *http://www.fcc.gov/Bureaus/OGC/Orders/2000/fcc00207.doc.* This document is available to individuals with disabilities requiring accessible formats (electronic ASCII text, Braille, large print, and audiocassette) by contacting Brian Millin at (202) 418–7426 (Voice), (202) 418–7365 (TTY), or by sending an email to *access@fcc.gov. Synopsis of the Policy Statement:*

I. Reaffirmation of Principles of Tribal Sovereignty and the Federal Trust Responsibility

The Commission recognizes the unique legal relationship that exists between the federal government and Indian Tribal governments, as reflected in the Constitution of the United States, treaties, federal statutes, Executive orders, and numerous court decisions. As domestic dependant nations, Indian Tribes exercise inherent sovereign powers over their members and territory. The federal government has a federal trust relationship with Indian Tribes, and this historic trust relationship requires the federal government to adhere to certain fiduciary standards in its dealings with Indian Tribes. In this regard, the Commission recognizes that the federal government has a longstanding policy of promoting tribal self-sufficiency and economic development as embodied in various federal statutes.

The Commission also recognizes that the Federally Recognized Indian Tribe List Act of 1994, makes a finding that the federal government has a trust responsibility to and a government-to-government relationship with recognized tribes.

Therefore, as an independent agency of the federal government, the Commission recognizes its own general trust relationship with, and responsibility to, federally-recognized Indian Tribes. The Commission also recognizes the rights of Indian Tribal governments to set their own communications priorities and goals for the welfare of their membership.

Commission's Proposals. None

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–16969 Filed 7–5–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, July 11, 2000 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, July 13, 2000 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Draft Advisory Opinion 2000–12—Bill Bradley for President, Inc. and McCain 2000, Inc. by counsel, Robert F. Bauer and Trevor Potter.

Draft Advisory Opinion 2000–15—Credit Union National Association, Inc., New York State Credit Union League, Inc., and the Credit Union Legislative Action Committee by counsel, Jan Witold Baran.

Regulations Priorities.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Signed: July 3, 2000.

Darlene Harris,

Acting Secretary of the Commission.

[FR Doc. 00–17258 Filed 7–3–00; 2:38 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW, Room 940. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011715.

Title: IMC/Colombia Express Space Charter and Sailing Agreement.

Parties: Industrial Maritime Carriers (U.S.A.) Inc. Colombia Express, L.L.C.

Synopsis: The proposed Agreement would permit the parties to charter space to one another and to coordinate their vessel services in the trade between United States Gulf ports, and inland U.S. points via such ports, and ports in Colombia and inland points via such ports.

By Order of the Federal Maritime Commission.

Dated: June 30, 2000.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–17059 Filed 7–5–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 99–15]

David P. Kelly and West Indies Shipping & Trading, Inc.—Possible Violations of the Shipping Act of 1984; Notice of Amendment to the Order of Investigation in Docket No. 99–15

This is to give notice that the Commission has amended its Order of Investigation in the above-captioned proceeding.

On August 13, 1999, the Federal Maritime Commission (''Commission'') issued an Order of Investigation and Hearing to determine whether West Indies Shipping and Trading, Inc. (''West Indies Shipping''), a non-vessel-operating common carrier (''NVOCC''), and its president and sole shareholder, David P. Kelly (''Kelley''), violated sections 8(a)(1), 10(a)(1), 19(a), 19(b)(1), and former section 23(a) (pre-OSRA) of the Shipping Act of the 1984 (''Act''), 46 U.S.C. app. §§§§ 1707(a)(1), 1709(a)1), 1718(a), and 1718(b)(1), and former §§ 1721(a). Notice of this Order was published in the **Federal Register** on August 18, 1999. 64 FR 44928.

The Commission has determined, in response to a motion filed by the Commission's Bureau of Enforcement, to amend the Order of Investigation and Hearing to encompass section 10(b)(1) of the Act, 46 U.S.C. app Sections 1709(b)(1). The full text of the original Order and the amendment, may be viewed on the Commission's home page at *www.fmc.gov,* or at the Office of the Secretary, Room 1046, 800 N. Capitol Street, NW., Washington, DC. Any person may file a petition for leave to

intervene in accordance with 46 CFR 502.72.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 00–17060 Filed 7–5–00; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 19, 2000.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. L.V. Ritter Trust No. 2, Marked Tree, Arkansas (E. Ritter Arnold, Marked Tree, Arkansas, and Daniel B. Hatzenbuehler, Memphis, Tennessee, as trustees); to retain voting shares of Marked Tree Bancshares, Inc., Marked Tree, Arkansas, and thereby indirectly retain voting shares of Marked Tree Bank, Marked Tree, Arkansas.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. The Testamentary Trusts A and B, Houston, Texas, and Constance M. Vickery, Houston, Texas, trustee; to retain voting shares of Texas Coastal Bank, Pasadena, Texas.

Board of Governors of the Federal Reserve System, June 29, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–16983 Filed 7–5–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 28, 2000.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Valley National Bancorp, Wayne, New Jersey; to acquire 9.9 percent of the voting shares of Shrewsbury Bancorp, Inc., Shrewsbury, New Jersey, and thereby indirectly acquire Shrewsbury State Bank, Shrewsbury, New Jersey.

B. Federal Reserve Bank of Minneapolis (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. EastBank Corporation, Minneapolis, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of EastBank, Minneapolis, Minnesota, a *de novo* bank.

Board of Governors of the Federal Reserve System, June 29, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–16984 Filed 7–5–00; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 31, 2000.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Grant County State Bancshares, Inc., Employee Stock Ownership Plan, Swayzee, Indiana, to become a bank holding company by acquiring 28 percent of the outstanding common stock of Grant County State Bancshares, Inc., Swayzee, Indiana, and thereby indirectly acquire the common stock of Grant County State Bank, Swayzee, Indiana.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. FNB Financial Corporation, Las Vegas, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Las Vegas, Las Vegas, New Mexico.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Eggemeyer Advisory Corp.; WJR Corp.; Castle Creek Capital, LLC; Castle Creek Capital Partners Fund I, LP; Castle Creek Capital Partners Fund IIa, LP; Castle Creek Capital Partners Fund IIb, LP, all of Rancho Santa Fe, California; to acquire more than 5 percent of the voting shares of Ruidoso Bank Corporation, Ruidoso, New Mexico, and thereby indirectly acquire Ruidoso State Bank, Ruidoso, New Mexico.

2. State National Bancshares, Inc., Lubbock, Texas; to acquire 100 percent of the voting shares of Ruidoso Bank Corporation, Ruidoso, New Mexico, and thereby indirectly acquire voting shares of Ruidoso State Bank, Ruidoso, New Mexico.

Board of Governors of the Federal Reserve System, June 30, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–17084 Filed 7–5–00; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

Federal Travel Regulation; National Travel Conference 2000

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) is announcing that significant changes to the Federal Travel Regulation will be discussed at a national travel conference to be held in Orlando, Florida, October 30 through November 1, 2000. Additionally, Travel Managers of the Year Awards will be presented by Government Executive magazine. Federal agencies may hold agency-wide meetings at this conference.

FOR FURTHER INFORMATION CONTACT: Jane Groat, Office of Governmentwide Policy, Travel Management Policy Division, at (202) 501–4318, or by e-mail to *jane.groat@gsa.gov* or at *www.nationaltravel2000.com.*

Dated: June 30, 2000.

William T. Rivers,

Acting Director, Travel Management Policy Division.

[FR Doc. 00–17076 Filed 7–5–00; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–50–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Projects

National Nosocomial Infections Surveillance (NNIS) System (0920–0012)—Revision—National Center for Infectious Disease (NCID), Centers for Disease Control and Prevention (CDC). The most recent renewal of the NNIS system was in 1997. The NNIS system, which was instituted in 1970, is an ongoing surveillance system currently involving 315 hospitals that voluntarily report their nosocomial infections data to the Centers for Disease Control and Prevention (CDC), who aggregates the data into a national database. The data are collected using surveillance protocols developed by CDC for high risk patient groups (ICU, high-risk nursery, and surgical patients). Instructional manuals, training of surveillance personnel, and a computer surveillance software are among the support that CDC provides without cost to participating hospitals to ensure the reporting of accurate and uniform data.

The purpose of the NNIS system is to provide national data on the incidence of nosocomial infections and their risk factors, and on emerging antibiotic resistance. The data are used to determine the magnitude of various nosocomial infection problems and trends in infection rates among patient with similar risks. They are used to detect changes in the epidemiology of nosocomial infections resulting from new medical therapies and changing patient risks. New to the NNIS system is the monitoring of antibiotic resistance and antimicrobial use in groups of patients to describe the epidemiology of antibiotic resistance and to understand the role of antimicrobial therapy to this growing problem. The NNIS system can also serve as a sentinel system for the detection of nosocomial infection outbreaks in the event of national distribution of a contaminated medical product or device.

The respondent burden is not the same in each hospital since the hospitals can select from a wide variety of surveillance options. A typical hospital will monitor patients for infections in two ICUs and surgical site infections following 3 surgical operations. The respondent burden includes the time and cost to collect data on nosocomial infections in patients in these groups and the denominator data to characterize risk factors in the patients who are being monitored; to enter the data as well as a surveillance plan into the surveillance software; to send the data to CDC by electronic transmission; and complete a short annual survey and administrative forms. The annualized burden is estimated to be 71,259 hours.

Respondent	Number of respondents	Number of responses/respondent	Average burden/response (in hours)
Hospitals	315	12	1.30

Dated: June 29, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–17092 Filed 7–5–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00138]

Youth-Focused HIV/AIDS Prevention Program Development and Technical Assistance Collaboration With Countries Targeted by the Leadership and Investment in Fighting the Epidemic (LIFE) Initiative; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for HIV/AIDS Prevention Program Development and Technical Assistance Collaboration with Countries Targeted by the LIFE (Leadership and Investment in Fighting an Epidemic) Initiative.

In July 1999, the Administration announced the LIFE Initiative to address the global AIDS pandemic. The LIFE Initiative, an effort to expand and intensify the global response to the growing AIDS pandemic and its serious impact, is part of the United States (U.S.) Government's participation in the International Partnership Against HIV/AIDS in Africa (IPAA). A central feature of the LIFE Initiative is a $100 million increase in U.S. support for sub-Saharan African countries and India, which are working to prevent the further spread of HIV and to care for those affected by this devastating disease. This additional funding is a critical step by the U.S. Government in recognizing the impact that AIDS continues to have on individuals, families, communities, and nations and responding to the imperative to do more. The Department of Health and Human Services (HHS), through its agency, the Centers for Disease Control and Prevention (CDC) is administering $35 million of the $100 million allocated to the LIFE Initiative by the U.S. Congress.

The purpose of the program is to support HIV/AIDS prevention program development and technical assistance for countries designated by the U.S. Congress under the LIFE Initiative. At present, those countries are Botswana, Cote D'Ivoire, Kenya, South Africa, Uganda, Rwanda, Zimbabwe, Ethiopia, Mozambique, Malawi, Tanzania, Nigeria, Senegal, Zambia and India. The countries targeted represent those with the most severe epidemic and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active.

The goals of the program are to address and support three program elements of the LIFE initiative: Primary Prevention, Capacity and Infrastructure Development, and Community and Home-Based Care and Treatment. The program described in this announcement calls for the delivery of HIV/AIDS prevention program development and technical assistance to the LIFE countries through a variety of recipient activities. The technical assistance will enhance the skills of LIFE country national AIDS program officials in strategic planning, evaluation, and communication relating to youth HIV/AIDS prevention care programs.

B. Eligible Applicants

Assistance will be provided only to a non-profit non-governmental organization. The eligible applicant must meet these criteria:

1. Have been granted tax-exempt status under Section 501(c)(3), as evidenced by an Internal Revenue Service (IRS) determination letter.
2. Have youth representation on their governing body, board, or on an advisory committee.
3. Have a minimum of one year documented experience in operating and centrally administering a coordinated program to serve youth with HIV prevention education and services within a major portion or region (multi-state or multi-territory) of the United States.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan or any other form.

C. Availability of Funds

Approximately $1 million is available in FY 2000 to support one award. It is expected that the award will begin on or about September 30, 2000, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection, occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicant may contract with other organizations under this cooperative agreement, however, applicant must perform a substantial portion of the activities (including program management and operations and delivery of prevention services) for which funds are requested.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities.

1. Recipient Activities

a. Provide technical assistance to national AIDS control programs in LIFE countries on how to collect, synthesize, and disseminate global youth-focused best-practices information. This will also help the youth-serving organizations (YSOs) and non-governmental organizations working with national AIDS control programs in the LIFE countries to meet the needs of young people. Activities could include, but are not limited to, peer education, adolescent development, adolescent sexual and reproductive health issues, and youth development as a prevention strategy.

b. Identify and implement peer-to-peer training opportunities and technical assistance needs for young people and their providers from national AIDS control programs in LIFE countries. This peer-to-peer training and technical assistance will help LIFE country public health providers plan, implement, and evaluate HIV/AIDS prevention and care programs to meet the in-country needs of young people. Such peer-to-peer technical assistance may include, but is not limited to, identifying and facilitating training experiences for young people or their providers from LIFE countries; bringing young people or their providers from LIFE countries to the U.S. to participate in conferences, meetings, and/or developmental experiences; and/or agency or its approved representatives embarking on temporary assignments in LIFE countries. Topics may include but are not limited to counseling and testing with young people, how to make HIV/AIDS medical services youth accessible, mother-to-child transmission, contraception supply and accessibility for youth, and development for vulnerable youth.

c. Provide public health officials, young people, youth-serving providers from national AIDS control programs, NGOs and YSOs in LIFE countries with technical assistance throughout the project period on developing and implementing strategic youth-focused HIV/AIDS prevention and care plans. Such plans will consist of goals and measurable objectives. This technical assistance will include how to monitor implementation of objectives in order to assess effectiveness and how to determine the timing and content of mid-course corrections to accomplish objectives.

d. Provide public health officials from national AIDS control programs, YSOs, and young people in LIFE countries with technical assistance, working with such officials to identify local HIV/AIDS prevention and care program and policy issues as they are evolving, and helping to determine how to use this feedback to refine and improve HIV prevention and care plans and programs.

e. Provide partnering organizations in LIFE countries with technical assistance to develop systems for timely distribution and dissemination of youth-specific HIV/AIDS program and policy information for continuing modification and improvement of AIDS control policies.

f. Develop and sustain, beyond project period, a communications systems to keep all stakeholders (officials from LIFE country national AIDS control programs, U.S. partners, CBOs, young people, YSOs, CDC, and others) informed of project progress and to share technical assistance and capacity building information.

g. Document, monitor, and record outcome indicators of successful activities under this cooperative agreement and include such evaluation information in the required annual progress reports.

2. CDC Activities

a. Provide technical advice to partners and national AIDS control programs of LIFE countries on development of systems to identify and improve youth-focused HIV/AIDS program and policy issues.

b. Provide consultation, scientific and technical assistance to partners and national AIDS control programs of LIFE countries on planning, operating, analyzing, and evaluating youth-focused HIV prevention programs.

c. Provide program and policy information to partners and national AIDS control programs of LIFE countries for rapid dissemination, coordination, and implementation of youth-focused HIV prevention efforts.

d. Assist in assessing program operations and evaluating overall effectiveness of programs.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 20 double-spaced pages, printed on one side, with one inch margins, and unreduced font. Pages should be numbered and a complete index to the application and its appendixes must be included. Begin each separate section on a new page. The original and each copy of the application set must be submitted unstapled and unbound. The following format should be used when developing your narrative.

Format

1. Abstract
2. Justification of Need
3. Organizational Capacity
4. Staffing Plans
5. Collaboration
6. Management and Evaluation Plan
7. Budget

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are in the application kit. On or before August 21, 2000, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be reviewed and evaluated against the following criteria by an independent review group appointed by CDC:

1. Justification of Need (20 Points)

The extent to which the applicant demonstrates understanding of the requirements, problems, objectives, complexities, and interactions required of the cooperative agreement.

2. Organizational Capacity (30 Points)

a. Degree to which the applicant provides evidence of an ability to carry-out the proposed project and the extent to which the applicant institution documents the capability to achieve objectives similar to those of this project.

b. Degree to which applicant has developed their expertise, services, and experience in youth-oriented HIV prevention, rather than just adapting such resources from an adult to a youth perspective.

c. Degree to which applicant has established mechanisms for communicating youth-focused HIV/AIDS prevention information in LIFE countries.

d. Degree to which proposed objectives are clearly stated, realistic, measurable, time-phased, related to the purpose of this project.

3. Staffing Plan (20 Points)

Extent to which professional personnel involved in this project are qualified, including evidence of past achievements relevant to this project.

4. Collaboration (10 Points)

a. Degree to which applicant possess established networks of contacts and knowledge of youth-serving HIV prevention institutions, people, and resources in order to identify people and programs for technical assistance and capacity building in LIFE countries.

b. Degree to which applicant has already developed national and global networks among officials in governments, non-governmental organizations (NGOs), and community-based organizations (CBOs) throughout the U.S. and in the LIFE countries.

5. Management and Evaluation Plan (20 Points)

Extent to which applicant demonstrates the adequacy of plans for administering and evaluating the project.

6. Budget (Not Scored)

Extent to which project budget is reasonable.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of

1. Annual progress reports;
2. Financial status report, no more than 90 days after the end of the budget period;
3. Final financial report and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–4 HIV/AIDS Confidentiality Provisions
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 317(k) (2) of the Public Health Service Act, 42 U.S.C. 247b(k)(2). The Catalog of Federal Domestic Assistance number is 93.941, HIV Demonstration, Research, Public and Professional Education Projects.

J. Where To Obtain Additional Information

This and other CDC [ATSDR] announcements can be found on the CDC home page Internet: http://www.cdc.gov. Click on ''Funding'', then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Annie H. Camacho, Grants Management Specialist, Centers for Disease Control and Prevention (CDC), Procurement and Grants Office, Room 3000, 2920 Brandywine Road, Mailstop E–15, Atlanta, GA 30341–4146, Telephone: (770) 488–2735, Email: atc4@cdc.gov.

For program technical assistance, contact: Leo Weakland, Deputy Coordinator, Global AIDS Activity (GAA), National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Mailstop E–07, Atlanta, GA 30333, Telephone number (404) 639–8016, Email address: lfw0@cdc.gov.

Dated: June 29, 2000.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control (CDC).

[FR Doc. 00–17011 Filed 7–5–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1353]

Agency Information Collection Activities; Proposed Collection; Comment Request; Current Good Manufacturing Practices and Related Regulations for Blood and Blood Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirement relating to the regulation of FDA's current good manufacturing practice (CGMP) and related regulations for blood and blood components.

DATES: Submit written comments on the collection of information by September 5, 2000.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Current Good Manufacturing Practices and Related Regulations for Blood and Blood Components—Parts 606 and 640 (21 CFR Parts 606 and 640) (OMB Control Number 0910–0116)—Extension

Under the statutory requirements contained in the Public Health Service Act (42 U.S.C. 262), no blood, blood component, or derivative may move in interstate commerce unless: (1) It is propagated or manufactured and prepared at an establishment holding an unsuspended and unrevoked license; (2) the product complies with regulatory standards designed to ensure safety, purity, and potency; and (3) it bears a label plainly marked with the product's proper name, manufacturer, and expiration date.

The CGMP and related regulations implement FDA's statutory authority to ensure the safety, purity, and potency of blood and blood components. The information collection requirements in the CGMP regulations provide FDA with the necessary information to perform its duty to ensure the safety, purity, and potency of blood and blood components. These requirements establish accountability and traceability in the processing and handling of blood

and blood components and enable FDA to perform meaningful inspections. The recordkeeping requirements serve preventative and remedial purposes. The disclosure requirements identify the various blood and blood components and important properties of the product, demonstrate that the CGMP requirements have been met, and facilitate the tracing of a product back to its original source. The reporting requirements inform FDA of any deviations that occur and that may require immediate corrective action.

Section 606.100(b) (21 CFR 606.100(b)) requires that written standard operating procedures (SOP's) be maintained for the collection, processing, compatibility testing, storage, and distribution of blood and blood components used for transfusion and manufacturing purposes. Section 606.100(c) requires the review of all pertinent records to a lot or unit of blood prior to release of the lot or unit. Any unexplained discrepancy or failure of a lot or unit of final product to meet any of its specifications must be thoroughly investigated, and the investigation, including conclusions and followup, must be recorded. Section 606.110(a) (21 CFR 606.110(a)) requires a physician to certify in writing that the donor's health permits plateletpheresis or leukapheresis if a variance from additional regulatory standards for a specific product is used when obtaining the product from a specific donor for a specific recipient. Section 606.110(b) requires establishments to request prior Center for Biologics Evaluation and Research (CBER) approval for plasmapheresis of donors who do not meet donor requirements. The regulation in 21 CFR 606.151(e) requires that records of expedited transfusions in life-threatening emergencies be maintained. So that all steps in the collection, processing, compatibility testing, storage and distribution, quality control, and transfusion reaction reports and complaints for each unit of blood and blood components can be clearly traced, 21 CFR 606.160 requires that legible and indelible contemporaneous records of each significant step be made and maintained for no less than 5 years. The regulations in 21 CFR 606.165 require that distribution and receipt records be maintained to facilitate recalls, if necessary. Section 606.170(a) (21 CFR 606.170(a)) requires records to be maintained of any reports of complaints of adverse reactions as a result of blood collection or transfusion. Each such report must be thoroughly investigated, and a written report, including conclusions and followup, must be prepared and maintained. Section 606.170(b) requires that fatal complications of blood collections and transfusions be reported to FDA as soon as possible and that a written report shall be submitted within 7 days. In addition to the CGMP's in part 606 (21 CFR part 606), there are regulations in 21 CFR part 640 that require additional standards for blood and blood components as follows: Sections 640.2(f), 640.3(a), 640.4(a), 640.25(b)(4) and (c)(1), 640.27(b), 640.31(b), 640.33(b), 640.51(b), 640.53(c), 640.56(b) and (d), 640.61, 640.63(b)(3), (e)(1), and (e)(3), 640.65(b)(2), 640.66, 640.71(b)(1), 640.72, 640.73, and 640.76(a) and (b) (21 CFR 640.2(f), 640.3(a), 640.4(a), 640.25(b)(4) and (c)(1), 640.27(b), 640.31(b), 640.33(b), 640.51(b), 640.53(c), 640.56(b) and (d), 640.61, 640.63(b)(3), (e)(1) and (e)(3), 640.65(b)(2), 640.66, 640.71(b)(1). 640.72, 640.73, and 640.76(a) and (b)). The information collection requirements and estimated burdens for these regulations are included in the part 606 burden estimates, as described below.

Respondents to this collection of information are licensed and unlicensed blood establishments inspected by FDA, and other transfusion services inspected by the Health Care Financing Administration (HCFA) . Based on FDA's registration system, there are an estimated 3,032 registered blood establishments inspected by FDA of which 1,349 perform pheresis. Based on information provided by HCFA, there are an estimated 3,400 transfusion services inspected by HCFA. An estimated 27 million units of Whole Blood and blood components are collected annually. The recordkeeping chart reflects the estimate that 95 percent of the recordkeepers, which collect 98 percent of the blood supply, had developed SOP's as part of their customary and usual business practice. Establishments may minimize burdens associated with the CGMP and related regulations by using model SOP's developed by industries' accreditation organizations. These accreditation organizations represent almost all registered blood establishments. The total annual responses in the reporting chart for fatality reporting are based on an annual average of fatality reports submitted to FDA. The annual frequency of recordkeeping and total annual records, and the estimated reporting and recordkeeping burden hours are based on information provided by industry, and FDA's experience. Under § 606.110(b), licensed establishments submit supplements to their biologics license applications to request prior CBER approval of plasmapheresis donors who do not meet donor requirements. The information collection requirements for § 606.110(b) are reported under OMB control number 0910–0315.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section[2]	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
606.170(b)	75	1	75	20	1,500

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] The reporting requirement in § 640.73, which addresses the reporting of fatal donor reactions, is included in the estimate for § 606.170(b).

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section[2]	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
606.100(b)	322[3]	1	322	24	7,728
606.100(c)	152[4]	26	4,000	1	4,000
606.110(a)	68[5]	5	340	0.5	170
606.151(e)	322[3]	12	3,864	0.083	321
606.160	322[3]	1,677	540,000	0.5	270,000

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

21 CFR Section[2]	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
606.165	152[4]	3,553	540,000	0.083	44,820
606.170(a)	322[3]	12	3,864	1	3,864
Total					330,903

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

[2] The recordkeeping requirements in §§ 640.3(a)(1), 640.4(a)(1), and 640.66, which address the maintenance of SOP's, are included in the estimate for § 606.100(b); the recordkeeping requirements in § 640.27(b), which address the maintenance of donor health records for plateletpheresis, are included in the estimate for § 606.110(a); and the recordkeeping requirements in §§ 640.2(f), 640.3(a)(2), 640.3(f), 640.4(a)(2), 640.25(b)(4) and (c)(1), 640.31(b), 640.33(b), 640.51(b), 640.53(c), 640.56(b) and (d), 640.61, 640.63(b)(3), (e)(1), and (e)(3), 640.65(b)(2), 640.71(b)(1), 640.72, and 640.76(a) and (b), which address the maintenance of various records, are included in the estimate for § 606.160.

[3] 5 percent of HCFA and FDA-registered blood establishments (0.05 X (3,400 + 3,032))

[4] 5 percent of FDA-registered establishments (3,032)

[5] 5 percent of pheresis establishments (1,349)

Dated: June 27, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–16978 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1226]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Investigational Device Exemptions, Reports, and Records

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 August 7, 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.

Investigational Device Exemptions, Reports, and Records—21 CFR Part 812 (OMB Control No. 0910–0078)—Extension

Section 520(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(g)) establishes the statutory authority to collect information regarding investigational devices and establishes rules under which new medical devices may be tested using human subjects in a clinical setting. The FDA Modernization Act of 1997 added section 520(g)(6) to the act and permitted changes to be made to either the investigational device or to the clinical protocol without FDA approval of an investigational device exemption (IDE) supplement.

An IDE allows a device, which would otherwise be subject to provisions of the act, such as premarket notification or premarket approval, to be used in investigations involving human subjects in which the safety and effectiveness of the device is being studied. The purpose of part 812 (21 CFR part 812) is to encourage, to the extent consistent with the protection of public health and safety and with ethical standards, the discovery and development of useful devices intended for human use. The IDE regulation is designed to encourage the development of useful medical devices and allow investigators the maximum freedom possible, without jeopardizing the health and safety of the public or violating ethical standards.

To do this, the regulation provides for different levels of regulatory control depending on the level of potential risk the investigational device presents to human subjects. Investigations of significant risk devices, those that present a potential for serious harm to the rights, safety, or welfare of human subjects, are subject to the full requirements of the IDE regulation. Nonsignificant risk device investigations, those that do not present a potential for serious harm, are subject to the reduced burden of the abbreviated requirements.

The regulation also includes provisions for treatment IDE's. The purpose of these provisions is to facilitate the availability, as early in the device development process as possible, of promising new devices to patients with life-threatening or serious conditions for which no comparable or satisfactory alternative therapy is available.

Section 812.10 allows the sponsor of the IDE to request a waiver to all of the requirements of part 812. This information is needed for FDA to determine if waiver of the requirements of part 812 will impact the public's health and safety.

Sections 812.20, 812.25, and 812.27, consist of the information necessary to file an IDE application with FDA. The submission of an IDE application to FDA is required only for significant risk device investigations. Section 812.20 lists the data requirements for the original IDE application, § 812.25 lists the contents of the investigational plan, and § 812.27 lists the data relating to previous investigations or testing. The information in this original IDE application is evaluated by the Center for Devices and Radiological Health to determine whether the proposed investigation will reasonably protect the public health and safety, and for FDA to make a determination to approve the IDE.

Once FDA approves an IDE application, a sponsor must submit certain requests and reports. Under § 812.35, a sponsor who wishes to make a change in the investigation which affects the scientific soundness of the study or the rights, safety, or welfare of

the subjects is required to submit a request for the change to FDA. Under § 812.150, a sponsor is required to submit reports to FDA. These requests and reports are submitted to FDA as supplemental applications. This information is needed for FDA to ensure protection of human subjects and to allow review of the study's progress.

Section 812.36(c) identifies the information necessary to file a treatment IDE application. FDA uses this information to determine if wider distribution of the device is in the interests of the public health. Section 812.36(f) identifies the reports required to allow FDA to monitor the size and scope of the treatment IDE, to assess the sponsor's due diligence in obtaining marketing clearance of the device and to ensure the integrity of the controlled clinical trials.

Section 812.140 lists the recordkeeping requirements for investigators and sponsors. FDA requires this information for tracking and oversight purposes. Investigators are required to maintain records, including correspondence and reports concerning the study; records of receipt, use, or disposition of devices; records of each subject's case history and exposure to the device; informed consent documentation; study protocol and documentation of any deviation from the protocol. Sponsors are required to maintain records, including correspondence and reports concerning the study; records of shipment and disposition; signed investigator agreements; adverse device effects information; and, for a nonsignificant risk device study, an explanation of the nonsignificant risk determination, records on device name and intended use, study objectives, investigator information, institutional review board (IRB) information, and a statement on the extent that good manufacturing practices will be followed.

The most likely respondents to this information collection will primarily be medical device manufacturers, investigators, hospitals, health maintenance organizations, and businesses.

In the **Federal Register** of April 13, 2000 (65 FR 19912), the agency requested comments on the proposed collection 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
812.10	1	1	1	1	1
812.20,812.25, and 812.27	600	0.5	300	80	24,000
812.35 and 812.150 (Significant)	600	7	4,200	6	25,200
812.150 (Nonsignificant)	600	0.017	10	6	60
812.36(c)	6	1	6	120	720
812.36(f)	6	2	12	20	240
Total					50.221

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
812.40	600	0.5	300	10	3,000
Original Supplemental	600	7	4,200	1	4,200
Nonsignificant	600	1	600	6	3,600
Total					10,800

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

I. Reporting

Section 812.10 estimates are based on the fact that FDA has received very few, if any, waiver requests in the past, and estimates that very few will be submitted in the future. Therefore, FDA estimates a minimal burden to account for waiver requests.

Sections 812.20, 812.25, and 812.27 estimates are based on the average of IDE's submitted from fiscal years 1995 through 1999. FDA estimates the annual reporting burden for one IDE original application to be approximately 80 hours, and the annual reporting burden for one IDE supplement to be approximately 6 hours.

Sections 812.35 and 812.150 estimates are based on the average of IDE supplements submitted from fiscal years 1995 through 1999 for significant risk device studies. FDA estimates the annual reporting burden for one IDE supplement to be approximately 6 hours.

The reporting burden for nonsignificant risk device studies (§ 812.150) is negligible. Nonsignificant risk device studies are not reported to FDA unless a problem is reported such as an unanticipated adverse device reaction, failure to obtain informed consent, withdrawal of IRB approval, or a recall of a device. In the past, an average of 10 incidences or less annually have been reported to FDA. Section 812.36(c) and (f) estimates are based on FDA's experience with the treatment use of drugs and knowledge of the types of devices that may meet the treatment use criteria. FDA estimates that an average of six treatment use applications will be submitted each year. FDA estimates that it will take approximately 120 hours to prepare a treatment IDE and the total annual burden for preparing applications will be 720 hours. FDA also estimates that it will take approximately 20 hours to prepare a semiannual report, resulting in a total annual burden of 240 hours for annual reports.

II. Recordkeeping

Section 812.40 estimates are based on conversations with manufacturers, industry trade association groups, and

businesses over the last 3 years. For significant risk device investigations, FDA has estimated that the recordkeeping burden for preparing an original IDE submission averages 10 hours for each original IDE submission. Similarly, through the same conversations mentioned above, FDA has estimated recordkeeping for each supplement requires 1 hour. The recordkeeping burden for nonsignificant risk device investigations is difficult to estimate because nonsignificant risk device investigations are not required to be submitted to FDA. The IDE staff estimates that the number of recordkeepers for nonsignificant risk device investigations is equal to the number for active significant risk device investigations. The recordkeeping burden, however, is reduced for nonsignificant risk device studies. It is estimated that 600 recordkeepers will spend 6 hours each in maintaining these records.

Dated: June 27, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–16974 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–0928]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for Samples and Protocols

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 August 7, 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.

Request for Samples and Protocols (OMB Control Number 0910–0206)—Extension

Under section 351 of the Public Health Service Act (42 U.S.C. 262), FDA has the responsibility to issue regulations that prescribe standards designed to ensure the safety, purity, and potency of biological products and to ensure that licenses for such products are only issued when a product meets the prescribed standards. Under § 610.2 (21 CFR 610.2), FDA may at any time require manufacturers of licensed biological products to submit to FDA samples of any lot along with the protocols showing the results of applicable tests prior to marketing the lot of the product. In addition to § 610.2, there are other regulations that require the submission of samples and protocols for specific licensed biological products as follows: Sections 640.101(f) (21 CFR 640.101(f)) (Immune Globulin (Human)), 660.6 (21 CFR 660.6) (Antibody to Hepatitis B Surface Antigen), 660.36 (21 CFR 660.36) (Reagent Red Blood Cells), and 660.46 (21 CFR 660.46) (Hepatitis B Surface Antigen).

Section 640.101(f)(2) requires for each lot of Immune Globulin (Human) product, the submission of all protocols relating to the history of the product and all results of all tests prescribed in the additional standards for the product.

Section 660.6(a) provides requirements for the frequency of submission of samples from each lot of Antibody to Hepatitis B Surface Antigen product, and § 660.6(b) provides the requirements for the submission of a protocol containing specific information along with each required sample. For § 660.6 products subject to official release by FDA, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history or manufacture of the product, including all results of each test for which test results are requested by the Center for Biologics Evaluation and Research (CBER). After official release is no longer required, one sample along with a protocol is required to be submitted at an interval of 90 days. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to FDA if continued evaluation is deemed necessary.

Section 660.36(a) requires, after each routine establishment inspection by FDA, the submission of samples from a lot of final Reagent Red Blood Cell product along with a protocol containing specific information. Section 660.36(a)(2) requires a protocol containing information including, but not limited to, manufacturing records, test records, and test results. Section 660.36(b) requires a copy of the antigenic constitution matrix specifying the antigens present or absent to be submitted to FDA at the time of initial distribution of each lot.

Section 660.46(a) provides requirements for the frequency of submission of samples from each lot of Hepatitis B Surface Antigen product, and § 660.46(b) provides the requirements for the submission of a protocol containing specific information along with each required sample. For § 660.46 products subject to official release by FDA, one sample from each filling of each lot is required to be submitted along with a protocol consisting of a summary of the history or manufacture of the product, including all results of each test for which test results are requested by CBER. After notification of official release is received, one sample along with a protocol is required to be submitted at an interval of 90 days. In addition, samples, which must be accompanied by a protocol, may at any time be required to be submitted to FDA if continued evaluation is deemed necessary.

Samples and protocols are required by FDA to help ensure the safety, purity, or potency of the product because of the potential lot-to-lot variability of a product produced from living organisms. In cases of certain biological products (e.g., Albumin, Plasma Protein Fraction, and specified biotechnology and specified synthetic biological products) that are known to have lot-to-lot consistency, official lot release is not normally required. However, submissions of samples and protocols of these products may still be required for surveillance, licensing, and export purposes, or in the event that FDA obtains information that the manufacturing process may not result in consistent quality of the product.

The following burden estimate is for protocols required to be submitted with each sample. The collection of samples is not a collection of information under 5 CFR 1320.3(h)(2). Respondents to the collection of information under § 610.2 are manufacturers of any licensed biological product. Respondents to the

collection of information under §§ 640.101(f)(2), 660.6(b), 660.36(a)(2) and (b), and 660.46(b) are manufacturers of the specific products referenced previously. The estimated number of respondents for each regulation is based on the annual number of manufacturers that submitted samples and protocols for biological products, including submissions for lot release, surveillance, licensing, or export. There are an estimated 350 manufacturers of licensed biological products, however, based on information obtained from FDA's data base system, approximately 100 manufacturers submitted samples and protocols in 1998, under the regulations cited previously. FDA estimates that approximately 86 manufacturers submitted protocols under § 610.2, and 14 manufacturers submitted protocols under the regulations for the specific products. FDA had previously estimated 80, instead of 90, manufacturers would submit samples and protocols annually under all the regulations cited previously to account for biotechnology firms that are exempt from lot release requirements. Because biotechnology firms may still be required to submit samples and protocols for purposes other than lot release, as explained previously, the number of respondents for § 610.2 in this estimate includes them. The slight increase in the total estimated number of respondents (100) is due to a normal variation in annual submissions.

The total annual responses are based on FDA's final actions completed in fiscal year 1998, which totaled 7,221, for the various submission requirements of samples and protocols for biological products. The rate of final actions is not expected to change significantly in the next few years. The hours per response are based on information provided by industry. The burden estimates provided by industry ranged from 1 to 5.5 hours. Under § 610.2, the hours per response are based on the average of these estimates and rounded to 3 hours. Under the remaining regulations, the hours per response are based on the higher end of the estimate (rounded to 5 or 6 hours) since more information is generally required to be submitted in the protocol than under § 610.2.

In the **Federal Register** of March 22, 2000 (65 FR 15341), the agency requested comments on the proposed collection 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
610.2	86	82.72	7,114	3	21,342
640.101(f)(2)	5	4.40	22	5	110
660.6(b)	6	11.33	68	5	340
660.36(a)(2) and (b)	1	1	1	6	6
660.46(b)	2	8	16	5	80
Total	100		7,221		21,878

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 27, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–16975 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 00N–1072]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Administrative Detention and Banned Medical Devices; Correction

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. This document also corrects several errors that appeared in Table 1 of a notice published in the **Federal Register** of March 31, 2000 (65 FR 17282).

DATES: Submit written comments on the collection of information by August 7, 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.

Administrative Detention and Banned Medical Devices—21 CFR 800.55(g), 800.55(k), 895.21, and 895.22 (OMB No. 0910–0114)—Extension

FDA has the statutory authority under section 304(g) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 334(g)), to detain during establishment inspections devices that are believed to be adulterated or misbranded. On March 9, 1979, FDA issued a final regulation on administrative detention procedures, which includes, among other things, certain reporting requirements (§ 800.55(g) (21 CFR 800.55(g))) and recordkeeping requirements (§ 800.55(k)). Under § 800.55(g), an applicant of a detention order must show documentation of ownership if devices are detained at a place other than that of the appellant. Under § 800.55(k), the owner or other responsible person must supply records about how the devices may have become adulterated or misbranded, as well as records of distribution of the detained devices. These recordkeeping requirements for administrative detentions allow FDA to trace devices for which the detention period expired

before a seizure is accomplished or injunctive relief is obtained.

FDA also has the statutory authority under section 516 of the act (21 U.S.C. 360f) to ban devices that present substantial deception or an unreasonable and substantial risk of illness or injury. The final regulation for banned devices contains certain reporting requirements (§§ 895.21(d) and 895.22(a) (21 CFR 895.21(d) and 895.22(a))). Section 895.21(d) states that if the Commissioner of Food and Drugs (the Commissioner) decides to initiate a proceeding to make a device a banned device, a notice of proposed rulemaking will be published in the **Federal Register**, and this notice will contain the finding that the device presents a substantial deception or an unreasonable and substantial risk of illness or injury. The notice will also contain the reasons why the proceeding was initiated, an evaluation of data and information obtained under other provisions of the act, any consultations with the panel, and a determination as to whether the device could be corrected by labeling or change of labeling, or change of advertising, and if that labeling or change of advertising has been made. Under § 895.21(d), any interested person may request an informal hearing and submit written comments. Under § 895.22, a manufacturer, distributor, or importer of a device may be required to submit to FDA all relevant and available data and information to enable the Commissioner to determine whether the device presents substantial deception, unreasonable and substantial risk of illness or injury, or unreasonable, direct, and substantial danger to the health of individuals.

Respondents to this collection of information are those manufacturers, distributors, or importers whose products FDA seeks to detain or ban.

In the **Federal Register** of March 31, 2000 (65 FR 17282), the agency requested comments on the proposed collection of information. No significant comments were received. Also, in the notice published in the **Federal Register** of March 31, 2000 (65 FR 17282 at 17283), Table 1 contained several errors. Table 1 of this document corrects those errors.

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
800.55(g)(1) and (g)(2)	1	1	1	1	1
895.22(a)	26	1	26	16	416
Total					441

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
800.55(k)	1	1	1	20	20

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Over the past 3 years, there has been an average of one new administrative detention action per year. Each administrative detention will have varying amounts of data and information that must be maintained. Historically, FDA's Center for Devices and Radiological Health (CDRH) has had very few or no annual responses for this information collection and normally reports one response per year. CDRH is anticipating a banning action in fiscal year 2000 that will involve 26 firms.

Dated: June 28, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–17021 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food and Drug Administration/Industry Exchange Workshop on Scale-Up and Postapproval Changes (SUPAC), Supplements, and Other Postapproval Changes; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of workshop.

SUMMARY: The Food and Drug Administration (FDA), Office of the Commissioner, Office of Regulatory Affairs, Center for Drug Evaluation and Research, and the Central Region Small Business Assistance Office, and the Pacific Region Small Business Office, in cooperation with the International Society for Pharmaceutical Engineering (ISPE) is announcing two workshops entitled FDA/Industry Exchange Workshops on Scale-Up and Postapproval Changes (SUPAC), Supplements, and Other Postapproval Changes. The workshops are intended to review the scientific, regulatory, and quality basis of SUPAC; discuss current issues; and provide attendees with information on the impact of the SUPAC guidances that have been finalized, as well as future agency efforts in this area.

Date and Time: See Table 1 following the *Location* section of this document.

Location: See Table 1 below.

TABLE 1

Workshop Address	Date and Local Time
Long Beach Convention Center, 300 East Ocean Blvd., Long Beach, CA 90802.	Tuesday, September 26, 2000, 9 a.m. to 4:30 p.m. Pacific time.
Embassy Suites, 150 Anza Blvd., Burlingame, CA 94010, 650–340–0327.	Friday, December 8, 2000, 9 a.m. to 4:30 p.m. Pacific time.

Contact: Marcia Madrigal, Industry and Small Business Representative, Food and Drug Administration, Oakland Federal Bldg., 1301 Clay St., suite 1180N, Oakland, CA 94612, 510–637–3980; FAX 510–637–3977 or via e-mail: mmadriga@ora.fda.gov.

Registration: The registration fee is $295 for ISPE members and $450 for nonmembers (which will cover refreshments, lunch, and materials). The ISPE tax number is FEI 59–2009272. Contact ISPE for registration forms, and other registration details at ISPE 3816 W. Linebaugh Ave, suite 412, Tampa, FL 33624, 813–960–2105; FAX 813–264–2816, or visit the ISPE website at http://www.ispe.org. Registrations are due 1 week prior to the start of each course. Space is limited, therefore, interested parties are encouraged to register early. Limited onsite registration may be available. Please arrive early to ensure prompt registration. Persons needing hotel rooms for the Embassy Suites location on December 8, 2000, should mention that they are attending the FDA/SUPAC workshop. A special rate is available until November 16, 2000, or until the room block is exhausted, whichever comes first.

If you need special accommodations due to a disability, please contact ISPE at least 7 days in advance.

SUPPLEMENTARY INFORMATION: The workshops are designed to help achieve objectives set forth in section 406 of the FDA Modernization Act of 1997 (21 U.S.C 393) and discussed in the FDA Plan for Statutory Compliance, which include working more closely with stakeholders; maximizing the availability of, and clarifying information about the process for review and submissions; and ensuring access to needed scientific and technical expertise.

The workshops also are consistent with the Small Business Regulatory Enforcement Fairness Act (Public Law 104–121), as outreach activities by Government agencies directed to small businesses.

The topics to be discussed include the following: (1) The history of SUPAC development; (2) the impact of scale-up postapproval change guidances and of the regulation rewrite of 21 CFR 314.70 (Supplements and other changes to an approved application); (3) comparison of SUPAC immediate-release solid dosage forms, modified-release oral dosage forms, and semisolid-topical dosage forms; (4) postapproval changes sterile aqueous solutions; (5) FDA field staff's involvement in SUPAC; (6) description and use of the equipment addenda to SUPAC; and (7) facts, figures, and future directions.

Dated: June 27, 2000.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 00–16979 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources And Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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

Proposed Project: Scholarships for Disadvantaged Students Program—New

The Scholarships for Disadvantaged Students (SDS) Program has as its purpose the provision of funds to eligible schools to provide scholarships to full-time, financially needy students from disadvantaged backgrounds enrolled in health professions and nursing programs.

To qualify for participation in the SDS program, a school must be carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including students who are members of racial and ethnic minority groups (section 737(d)(1)(B) of the PHS Act). A school must meet the eligibility criteria to demonstrate that the program has achieved success based on the number and/or percentage of disadvantaged students who graduate from the school. In awarding SDS funds to eligible schools, funding priorities must be given to schools based on the proportion of graduating students going into primary care, the proportion of underrepresented minority students, and the proportion of graduates working in medically underserved communities (section 737(c) of the PHS Act).

The estimated response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per response	Total hour burden
SDS	450	1	25.5	11,475
Total	450			11,475

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: June 29, 2000.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 00–16973 Filed 7–5–00; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(6) and 552b(c)(9)(B), title 5 U.S.C., as amended. The discussions could reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and the premature disclosure of discussions related to personnel and programmatic issues would be likely to significantly frustrate the subsequent implementation of recommendations.

Name of Committee: Board of Scientific Counselors, National Cancer Institute, Subcommittee A—Clinical Sciences and Epidemiology.

Date: July 24, 2000.

Time: 8:30 a.m. to 4:00 p.m.

Agenda: Discussion of personnel and programmatic issues and Review and evaluate individual Principal Investigators.

Place: National Cancer Institute, Building 31, C Wing, 6th floor, Conference Room 6, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Abby Sandler, Executive Secretary, Institute Review Office, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 7019, Bethesda, MD 20892, (301) 496–7628.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–17096 Filed 7–5–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse Special Emphasis Panel Program Projects.

Date: August 4, 2000.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Rita Liu, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: June 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–17097 Filed 7–5–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Phase II SBIR: ''Prevention Activities Handbook: A Practioner's Guide to Selecting and Implementing Interactive Drug Use Prevention Activities for Children and Adolescents''.

Date: July 18, 2000.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel ''Clinical Trial Network Administrative Coordinating Center''.

Date: July 25–26, 2000.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: June 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–17098 Filed 7–5–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, (Teleconference).

Date: July 13, 2000.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: 45 Natcher Bldg, Rm 5As.25u, Bethesda, MD 20892.

Contact Person: John R. Lymangrover PhD, Scientific Review Administrator, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25n, Bethesda, MD 20892, 301–594–4952.

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. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–17099 Filed 7–5–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; 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: National Institute of Environmental Health Sciences Special Emphasis Panel, Mentored Patient-Oriented Research Career Development Awards (K23s).

Date: July 21, 2000.

Time: 10 a.m. to 11 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Administrator, NIEHS, PO Box 12233 EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Molecular Epidemiologic Mentored Scientific Development Awards (K01s).

Date: July 28, 2000.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Administrator, NIEHS, PO Box 12233 EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Mentored Clinical Scientist Development Awards (K08s).

Date: July 28, 2000.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Administrator, NIEHS, PO Box 12233 EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Mentored Patient-Oriented Research Career Development Awards (K23s).

Date: July 28, 2000.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Administrator, NIEHS, PO Box 12233 EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Research Grant Applications (R01s) Review.

Date: July 31, 2000.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS—East Campus, Building 4401, Conference Room 122, 79 Alexander Drive, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Administrator, NIEHS, PO Box 12233 EC–30, Research Triangle Park, NC 27709, (919) 541–1307.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institutes of Health, HHS)

Dated: June 23, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–17100 Filed 7–5–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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: National Institute of Mental Health Special Emphasis Panel.

Date: July 6, 2000.

Time: 11 a.m. to 3 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: Fred Altman, Scientific Review Administrator, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Boulevard, Room 6220, MSC 9621, Bethesda, MD 20892–9621, 301–443–8962.

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: National Institute of Mental Health Special Emphasis Panel.

Date: July 7, 2000.

Time: 1:30 p.m. to 2:30 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: Asikiya Walcourt, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, 6001 Executive Boulevard, 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.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: July 31, 2000.

Time: 2 p.m. to 5 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: Mary Sue Krause, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6138, Bethesda, MD 20892–9606, 301–443–6470.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: August 9–10, 2000.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Robert H. Stretch, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–4728.

(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: June 27, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–17101 Filed 7–5–00; 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 552(b)(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: July 7, 2000.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: J. Scott Osborne, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

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: July 10, 2000.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications,

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: J. Scott Osborne, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782.

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: July 10–11, 2000.

Time: 2:00 p.m. to 11:00 a.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Shirley Hilden, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198.

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: July 11, 2000.

Time: 11:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW. Washington, DC 20007.

Contact Person: Shirley Hilden, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7814, Bethesda, MD 20892, (301) 435–1198.

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: July 11, 2000.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Nunn, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910.

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: July 12–14, 2000.
Time: 8:00 a.m. to 5:00 p.m..
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.
Contact Person: Patricia H. Hand, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767, handp@csr.nih.gov.
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: July 12–14, 2000.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Jefferson, 16th and M Streets, NW., Washington, DC 20036–3295.
Contact Person: David L. Simpson, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278.
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: July 12–13, 2000.
Time: 8:30 a.m. to 12:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Angela M. Pattatucci-Aragon, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5220, MSC 7852, Bethesda, MD 20892, (301) 435–1775.
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: July 12–13, 2000.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: St. James Hotel, 950 24th Street, NW., Washington, DC 20037.
Contact Person: Lawrence N. Yager, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, MSC 7808, Bethesda, MD 20892, 301–435–0903, yagerl@csr.nih.gov.
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: July 12, 2000.
Time: 9:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.
Contact Person: Michael J. Kozak, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 435–0913, kozakm@csr.nih.gov.
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: July 12, 2000.
Time: 11:00 a.m. to 1:00 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: John Bishop, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.
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: July 12, 2000.
Time: 2:00 p.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Camilla E. Day, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, MSC 7890, Bethesda, MD 20892, (301) 435–1037, dayc@csr.nih.gov.
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: July 12–13, 2000.
Time: 2:00 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westin Fairfax Hotel, 2100 Massachusetts Ave., NW., Washington, DC 20008.
Contact Person: Ranga V Srinivas, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@csr.nih.gov.
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: July 13–14, 2000.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications and/or proposals.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007–3701.
Contact Person: Ron Manning, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, (301) 435–1723.
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: AIDS and Related Research Integrated Review Group, AIDS and Related Research 2.
Date: July 13–14, 2000.
Time: 8:00 a.m. to 1:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.
Contact Person: Sami A. Mayyasi, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.
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: July 13–14, 2000.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave., NW., Washington, DC 20007.
Contact Person: Jean Hickman, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.
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: July 13, 2000.
Time: 8:30 a.m. to 9:30 a.m.
Agenda: To review and evaluate grant applications.
Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.
Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718, perkins@csr.nih.gov.
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: July 13, 2000.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.

Place: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Joanne T. Fujii, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, Bethesda, MD 20892, (301) 435–1178, fujiij@drg.nih.gov.

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: July 13–14, 2000.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Arlington Hyatt, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Philip Perkins, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718, perkins@csr.nih.gov.

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: July 13, 2000.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesday, MD 20892 (Telephone Conference Call).

Contact Person: John Bishop, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

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: July 13–14, 2000.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Washington/Chevy Chase, 5520 Wisconsin Ave., Bethesda, MD 20815.

Contact Person: Nancy Shinowara, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4208, MSC 7814, (301) 435–1173, shinowan@drg.nih.gov.

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 Empasis Panel.

Date: July 13, 2000.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Michael Micklin, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, micklinm@csr.nih.gov

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: Genetic Sciences Integrated Review Group, Biological Sciences Subcommittee 1.

Date: July 13–14, 2000.

Time: 5:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Nancy Pearson, Chief, Genetic Sciences Integrated Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2212, MSC 7890, Bethesda, MD 20892, (301) 435–1047.

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: July 14, 2000.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Karen Sirocco, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–0676.

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: July 14, 2000.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard Panniers, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, 7842, Bethesda, MD 20892, (301) 435–1741.

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: July 16–17, 2000.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, 7852, Bethesda, MD 20892, (301) 435–1165.

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: July 16–18, 2000.

Time: 6:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Best Western University Inn, Highway 54 East, P.O. Box 2118, Chapel Hill, NC 27515–2118.

Contact Person: Eugene Vigil, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

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: July 16–17, 2000.

Time: 7:00 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Mary Clare Walker, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5104, 7852, Bethesda, MD 20892, (301) 435–1165.

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: July 17–18, 2000.

Time: 8:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave NW. Washington, DC 20007.

Contact Person: Jerry L. Klein, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4138, MSC 7804, Bethesda, MD 20892, (301) 435–1213.

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: July 17–18, 2000.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Westin Fairfax Hotel, 2100 Massachusetts Ave., NW., Washington, DC 20008.

Contact Person: Sally Ann Amero, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, (301) 435–1159, ameros@crs.nih.gov.

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: July 17–18, 2000.
Time: 8:30 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael Micklin, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, micklinm@crs.nih.gov.
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: July 17, 2000.
Time: 8:30 a.m. to 9:00 a.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, Versailles IV Room, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jerrold Fried, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.
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: July 17, 2000.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Luigi Giacometti, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892, (301) 435–1246.
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: July 17–18, 2000.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.
Contact Person: Houston Baker, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, (301) 435–1175, bakerh@csr.nih.gov
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: July 17, 2000.
Time: 9:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jerrold Fried, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7802, Bethesda, MD 20892, (301) 435–1777.
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: July 17, 2000.
Time: 1:00 p.m. to 3:00 p.m.
*Agenda:*To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Martin L. Padarathsingh, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7804, Bethesda, MD 20892, (301) 435–1717.
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: July 17–19, 2000.
Time: 6:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Inn at Pen, 3600 Sanson Street, Philadelphia, PA 19104.
Contact Person: Nancy Lamontagne, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1726.
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: June 29, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–17095 Filed 7–05–00; 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: June 28, 2000.
Time: 3:30 p.m. to 4:30 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Victoria S. Levin, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20892, (301) 435–0912, levin@csr.nih.gov.
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: June 29, 2000.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Victoria S. Levin, Scientific Review Administrator, Center for Scientific Review, National institutes of Health, 6701 Rockledge Drive, Room 3172, MSC 7848, Bethesda, MD 20-892, (301) 435–0912, levinv@csr.nih.gov.
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: June 27, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–17102 Filed 7–5–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4563–N–09]

Notice of Proposed Information Collection for HOPE VI Survey

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:* September 5, 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 Office, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, W.W., 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 followinng information:

Title of Proposal: HOPE VI Survey.

OMB Number: 257–7.

Description of the need for the information and proposed use: One hundred original HOPE VI residents at eight sites will be surveyed by telephone using computer-assisted telephone interviewing (CATI). The residents will provide information on housing choices available to and made by original residents, satisfaction with current housing neighborhood locations, current living conditions, attitudes toward services received through the HOPE VI Program, and current employment status. The information will help HUD increase knowledge of the ways in which housing choices and social and economic outcomes for original residents are affected by revitalization efforts at selected HOPE VI sites. Data gathered will be used by the Urban Institute and a contractor to prepare a project report for HUD. HUD and local housing agencies could benefit greatly from learning more about what happens to original families. An incentive payment of $20.00 will be made to respondents participating in this survey in order to ensure a high response rate.

Agency form numbers: None.

Members of affected public: Individuals or households.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 100 residents at eight HOPE VI sites, one-time, 20 minutes (16,000 total minutes), 266 total reporting burden.

Status of the proposed information collection: New.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 30, 2000.

Harold Lucas,

Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

HOPE VI SURVEY
Group 1 and Group 2 Sites

INTRODUCTION

Hello, my name is _(interviewer name)_ and I am calling from Abt Associates.

We are conducting a research project to find out how families are doing since they moved out of _(name of development)_. The survey includes questions about your new house or apartment, your new neighborhood, and general questions about things that have happened since you moved. Taking this survey will have no effect on your housing subsidy, and all of your answers will be kept private.

We would like to speak with _(name of head of household)_. Is that you?

[If not head of household]
May I please speak with him/her please?
[When head answers, repeat intro materials.]

[If head of household is not home]
When would be a good time for me to try back?
[Record date and time.]

You used to live at _(street address and apartment number)_. Is that right?
Yes [proceed with interview]
No [ask next set of questions]

If No:
Did you ever live at that address?
Yes
No → TERMINATE INTERVIEW

If Yes:
What years did you live there? _____
(If not within a year before or after date above, TERMINATE.)
(If within a year, then ask:)
Did you move because they were renovating the development?
Yes → PROCEED WITH INTERVIEW
No → TERMINATE INTERVIEW

***All questions will include a DK, REFUSED, and NA code ***

HOUSING STATUS

The first few questions ask about you apartment or house where you live now.

1. Is the housing unit you now live in:
   1 public housing, →**SKIP TO Q1a**
   2 a private market apartment, →**SKIP TO Q1b**
   3 a home or condominium you own →**SKIP TO Q2**
   4 homeless shelter or shelter for domestic violence, or →**SKIP TO Q2**
   5 a mobile home? →**SKIP TO Q2**

   1a. Is your current apartment…:
   1 …in the same HOPE VI public housing development you lived in before, __(name of development)__?
   2 …in a different public housing development?, or
   3 …a scattered-site public housing unit?

   1b. Do you receive a Section 8 voucher to help you pay for your apartment:?
   1 Yes
   2 No

2. Do you share this apartment/house with other friends and family, besides your own children (and your spouse or partner)?
   1 Yes
   2 No →**SKIP TO Q3**

   2a. Do you share the rent with your family or friends, or are you not responsible for any of the rent?
   1 We share the rent
   2 I am not responsible for any of the rent.

3. Which of the following best describes your apartment or house? Is it:
   1 a one-family house, or →**SKIP TO Q3a**
   2 a building with two or more units? →**SKIP TO Q3b**

   3a. Is this one-family house:
   1 detached from any other house, or
   2 attached to one or more houses?

   3b. Does this apartment building have:
   3 2 apartments
   4 3 or 4 apartments
   5 5 to 9 apartments
   6 10 to 19 apartments
   7 20 to 49 apartments

8 50 or more apartments

4. How many years (months) have you lived at your current address?

___ ___ years

IF LESS THAN ONE YEAR: ___ ___ months

5. How many years (months) have you lived in your neighborhood?

___ ___ years

IF LESS THAN ONE YEAR: ___ ___ months

6. How many times have you moved since __(year development renovated)__ when you moved out of __(name of development)__, including your move to your current apartment/house?
   1 Once
   2 2-3
   3 4-5
   4 More than 5 times

7. Is the apartment/house you live in now the same place you *first moved to* when you moved from __(name of development)__ in about __(year dev. renovated___?
   1 Yes → **SKIP TO Q11**
   2 No

8. Thinking about that first move out of __(name of development)__, was the housing unit you moved to:
   1 public housing, →**SKIP TO Q8a**
   2 regular private market apartment or house, →**SKIP TO Q8b**
   3 homeless shelter or shelter for domestic violence, or →**SKIP TO Q9**
   4 a mobile home? →**SKIP TO Q9**

8a. Was that first apartment…:
   1 …in the same HOPE VI public housing development you lived in before? →**SKIP TO Q9**
   2 …in a different public housing development?, or →**SKIP TO Q9**
   3 …is it a scattered-site public housing unit? →**SKIP TO Q9**

8b. Did you receive a Section 8 voucher to help you pay for your apartment:?
   1 Yes
   2 No

9. Did you share this apartment/house with other friends and family, besides your own children?
   1 Yes
   2 No →**SKIP TO Q10**

   9a. Did you share the rent with your family or friends, or were you not responsible for any of the rent?
   1 We shared the rent
   2 I was not responsible for any of the rent.

10. Which of the following best describes that first apartment or house? Was it:
   1 a one-family house, or →**SKIP TO Q10a**
   2 a building with two or more units? →**SKIP TO Q10b**

   10a. Was this one-family house:
   1 detached from any other house, or
   2 attached to one or more houses?

   10b. Did this apartment building have:
   1 2 apartments
   2 3 to 4 apartments
   3 5 to 9 apartments
   4 10 to 19 apartments
   5 20 to 49 apartments
   6 50 or more apartments

I would like to ask about the various types of housing counseling and other assistance you may have received from (name of housing agency or other organization) when you first moved from (name of development). Did you receive help... :

	Yes	No	DON'T KNOW	NA
11. ... identifying neighborhoods to search in?	1	2	3	4
12. ... listings of available apartments?	1	2	3	4
13. ... transportation to possible rental units?	1	2	3	4
14. ... paying the security deposit?	1	2	3	4
15. ... financial assistance to help pay for moving costs?	1	2	3	4
16. ... job training or help finding a job?	1	2	3	4

17. ... social services? 1 2 3 4

[If they received Section 8 in first apartment, Q8b=1, then ask Q11.]

18. You have said that you no longer live in this apartment where you first moved to around __ (year development revitalized) __. Why did you move out of that apartment?
    1 Because you wanted to,
    2 Because your apartment failed inspection,
    3 Because you were evicted, or
    4 For some other reason? (please specify: _____)

[If they did not receive Section 8 in first apartment, Q8b=2, then ask Q12.]

19. You have said that you no longer live in this apartment where you first moved to around __ (year development revitalized) __. Why did you move out of that apartment?
    1 Because you wanted to,
    2 Because you were evicted, or
    3 For some other reason? (please specify: _____)

The next few questions ask your apartment/house where you live now.

20. Overall, how satisfied are you with the apartment/house where you live now? Would you say that you are:
    1 Very satisfied
    2 Somewhat satisfied
    3 In the middle
    4 Somewhat dissatisfied
    5 Very dissatisfied

21. Overall, how would you describe the condition of your apartment/house? Would you say it is in:
    1 Excellent condition
    2 Good condition
    3 Fair condition
    4 Poor condition

The next questions ask about the condition of your current apartment/house.

22. How much of a problem are walls with peeling paint or broken plaster?
    1 Big problem
    2 Some problem
    3 No problem at all

23. How much of a problem is plumbing that does not work?
    1 Big problem
    2 Some problem
    3 No problem at all

24. How much of a problem are rats or mice?
    1 Big problem
    2 Some problem
    3 No problem at all

25. How much of a problem are cockroaches or other bugs?
    1 Big problem
    2 Some problem
    3 No problem at all

26. How much of a problem are broken locks or no locks on the door to your unit?
    1 Big problem
    2 Some problem
    3 No problem at all

27. How much of a problem is having too little space?
    1 Big problem
    2 Some problem
    3 No problem at all

How likely is it that your neighbors would do something if they saw . . .

	Very likely,	Likely,	Neither likely nor unlikely,	Unlikely, or	Very unlikely?
28. Children skipping school and hanging out on a street corner? Would you say . . .	1	2	3	4	5
29. Children spray-painting graffiti on a local building?	1	2	3	4	5
30. Children showing disrespect to an adult?	1	2	3	4	5

31. A fight break out in front of their home?	 1	2	3	4	5

Please tell me how much you agree or disagree with the following statements about your neighborhood.

	Strongly agree	Somewhat agree	Neither agree nor disagree	Somewhat disagree	Strongly disagree?
32. People around here are willing to help their neighbors..	1	2	3	4	5
33. People in this neighborhood share the same values.	1	2	3	4	5
34. This is a close-knit neighborhood.	1	2	3	4	5
35. People in this neighborhood can be trusted.	1	2	3	4	5
36. People in this neighborhood generally get along with each other.	1	2	3	4	5

The next questions ask about services in your neighborhood. We would like to know how long it takes you to get to certain places in your neighborhood.

37. How long does it take you to get to the nearest bus or train stop?
    1 Less than 15 minutes
    2 15 to 30 minutes
    3 30 to 45 minutes
    4 45 minutes to one hour
    5 More than one hour
    6 Not applicable
    7 Don't know

38. How long does it take you to get to the grocery store you use most of the time?
    1 Less than 15 minutes
    2 15 to 30 minutes
    3 30 to 45 minutes
    4 45 minutes to one hour
    5 More than one hour
    6 Not applicable
    7 Don't know

39. How long does it take you to get the nearest park or playground?
    1 Less than 15 minutes
    2 15 to 30 minutes
    3 30 to 45 minutes
    4 45 minutes to one hour
    5 More than one hour
    6 Not applicable
    7 Don't know

40. How long does it take you to get to your church or place of worship?
    1 Less than 15 minutes
    2 15 to 30 minutes
    3 30 to 45 minutes
    4 45 minutes to one hour
    5 More than one hour
    6 Not applicable
    7 Don't know

41. How long does it take you to get to the doctor, health clinic, or hospital you use most of the time?
    1 Less than 15 minutes
    2 15 to 30 minutes
    3 30 to 45 minutes
    4 45 minutes to one hour
    5 More than one hour
    6 Not applicable
    7 Don't know

ADJUSTMENT/TRANSITION

The next questions ask about interactions with your neighbors.

42. During the last 12 months, how often have you loaned things to a neighbor?
    1 Almost every day
    2 Once a week
    3 Once a month
    4 A few times
    5 Almost never

43. During the last 12 months, how often have you borrowed things from a neighbor?
    1 Almost every day
    2 Once a week
    3 Once a month
    4 A few times
    5 Almost never

44. During the last 12 months, how often have you babysat a neighbor's child?
    1 Almost every day
    2 Once a week
    3 Once a month
    4 A few times
    5 Almost never

45. During the last 12 months, how often have you had coffee or a meal with a neighbor?
    1 Almost every day
    2 Once a week
    3 Once a month
    4 A few times
    5 Almost never

46. During the last 12 months, how often have you stopped to chat with a neighbor in the street or hallway?
    1 Almost every day
    2 Once a week
    3 Once a month
    4 A few times
    5 Almost never

47. How many of your friends live in the same neighborhood as you?
    1 None
    2 A few
    3 Many

48. How many of your family members live in the same neighborhood as you?
    1 None
    2 A few
    3 Many

NEIGHBORS AND NEIGHBORHOOD

The next few questions ask about your neighborhood.

49. Think about the people who live in your neighborhood. Would you say that…
    1 …most of the people earn more money than you do,
    2 …most of the people earn about the same money that you do, or
    3 …most of the people earn less money than you do?

50. How would you describe the racial/ethnic composition of your neighborhood?
    1 a mix of African-American and White
    2 a mix of African-American and Hispanic
    3 a mix of Hispanic and White

4 a mix of African-American, Hispanic, and White
5 mostly African-American
6 mostly Hispanic
7 mostly white
8 [other]

Now, please think about the area you consider your neighborhood and tell me if the following items are a big problem, some problem, or no problem at all in your neighborhood.

	Big problem	Some problem	No problem at all	DK	Refused
51. Unemployment. Is that a	1	2	3	8	9
52. Lack of job training or job placement programs.	1	2	3	8	9
53. Lack of child care.	1	2	3	8	9
54. Lack of medical care such as health clinics, dental offices, or eye doctors	1	2	3	8	9
55. Lack of restaurants or grocery stores	1	2	3	8	9
56. Lack of programs for children such as recreational and tutorial programs	1	2	3	8	9
57. Lack of services for seniors	1	2	3	8	9
58. Lack of public transportation	1	2	3	8	9
59. Quality of schools	1	2	3	8	9
60. Police not coming when called	1	2	3	8	9
61. People being attacked or robbed	1	2	3	8	9
62. People selling drugs	1	2	3	8	9
63. People using drugs	1	2	3	8	9
64. Groups of people just hanging out	1	2	3	8	9
65. The number of teenage mothers	1	2	3	8	9
66. Gangs	1	2	3	8	9
67. Graffiti, that is, writing or painting on the walls of the buildings	1	2	3	8	9
68. Shootings and violence	1	2	3	8	9

69. Rape or other sexual attacks	1	2	3	8	9
70. Racial or cultural groups that do not get along with each other	1	2	3	8	9
71. Trash and junk in the parking lots, streets, lawns, and sidewalks	1	2	3	8	9

Employment and Job Training

Next, we have a few questions about work.

725a. Do you currently work for pay?

Yes	1
No	2 → **(SKIP TO Q73a)**
DON'T KNOW	8 → **(SKIP TO Q72d)**
REFUSED	9 → **(SKIP TO Q72d)**

72b. On average, do you work …

20 hours a week or more, or	1
Less than 20 hours a week?	2 → **(SKIP TO Q72d)**
DON'T KNOW	8 → **(SKIP TO Q72d)**
REFUSED	9 → **(SKIP TO Q72d)**

72c. About how many hours a week do you work at your main job?

Less than 35 hours a week	1
35 or more hours a week	2
DON'T KNOW	8
REFUSED	9

72d. Is your (main) job located in your neighborhood, some other part of the city, in the suburbs, or somewhere else?

Your neighborhood	1
Some other part of the city	2
Suburbs	3
Somewhere else	4
DON'T KNOW	8
REFUSED	9

SKIP TO 74a

73a. Have you ever worked for pay?

Yes 1

No	2→(SKIP TO Q.74a)
DON'T KNOW	8→(SKIP TO Q.74a)
REFUSED	9→(SKIP TO Q.74a)

73b. How many months or years has it been since you were last employed full or part time?

_____ years
OR _____ months
DON'T KNOW.....98
REFUSED.....99

74a. Does anyone else in your household currently work for pay?

Yes 1
No ..... 2 → **(SKIP TO Q72)**
DON'T KNOW..... 8 → **(SKIP TO Q72)**
REFUSED..... 9 → **(SKIP TO Q72)**

67b. On average, does that person work …

20 hours a week or more, or 1
Less than 20 hours a week? 2
DON'T KNOW.....8
REFUSED.....9

72. Have you looked for a job in the last 12 months?

Yes
No → **(SKIP TO Q82)**

I am now going to read you a list of factors that might cause some people problems when looking for a job. Thinking about your own experience during the last 12 months, please tell me whether any of the following factors has made it difficult for you personally to find a job.

	Yes	No	DK	Refused
73. Work experience	1	2	8	9
74. Child Care	1	2	8	9
75. Transportation	1	2	8	9
76. English-speaking ability	1	2	8	9
77. Having a disability	1	2	8	9
78. Discrimination	1	2	8	9
79. Jobs located in the neighborhood	1	2	8	9
80. Skills employers want	1	2	8	9

81. Information about jobs available..... 1 2 8 9
82. In the last 12 months, did you complete any classes to earn a regular high school diploma or GED?
    1 yes
    2 no

83. In the last 12 months, did you complete any college courses or programs for credit toward a college degree, such as an AA, BA, or advanced degree?
    1 yes
    2 no

84. In the last 12 months, did you complete any welfare-to-work training programs or classes?
    1 yes
    2 no

85. Are you currently taking any classes or enrolled in any training programs?
    1 Yes
    [specify]_____
    2 No

HARDSHIP QUESTIONS

Now I'm going to read you some statements that people have made about their food situation and their housing situation. For these statements, please tell me whether the statement was often, sometimes, or never true for (you/your family) in the last 12 months, that is, since (name of current month) of last year.

86. The first statement is "(I/we) worried whether (my/our) food would run out before (I/we) got money to buy more." Was that often, sometimes, or never true for (you/your family) in the last 12 months?
    1 often true
    2 sometimes true
    3 never true

87. "The food that (I/we) bought just didn't last, and (I/we) didn't have money to get any more." Was that often, sometimes, or never true for (you/your family) in the last 12 months?
    1 often true
    2 sometimes true
    3 never true

88. In the last 12 months, since (name of current month) last year, did you or other adults in your family ever cut the size of your meals or skip meals because there was not enough money for food?
    1 yes
    2 no →**SKIP TO Q89**

    88A. How often did this happen? Was it ...
    1 almost every month

2 some months, but not every month, or
3 only 1 or 2 months?

89. During the last 12 months, was there a time when (you/you and your family) were not able to pay mortgage, rent or utility bills?
1 yes
2 no →**SKIP TO Q90**

89A. Did you get any help when you were not able to pay the mortgage, rent or utility bills?
1 yes
2 no →**SKIP TO Q90**

90B. Who did you get help from? (code all that apply)
1 family or friends
2 clergy (minister, priest, rabbi)
3 bank, loan company, other commercial source
4 community program
5 housing authority
6 government program
7 other (specify) _____

90. During the last 12 months, did you or your children move in with other people even for a little while because you could not afford to pay your mortgage, rent or utility bills?
1 yes
2 no

91. During the last 12 months, has your household ever been without telephone service for more than 24 hours because you could not afford to pay the telephone bill?
1 yes
2 no

92. How likely or unlikely do you think it is that you will become homeless in the *next* 12 months? Do you think it is . . .
1 very likely,
2 somewhat likely,
3 somewhat unlikely, or
4 very unlikely?

Welfare Use

These last questions will help us understand some basic information about your household and apartment. In the past 6 months, have you or anyone in your household received . . .

	Yes	No	REFUSED
93. Supplemental security income or SSI?	1	2	9
94. Other disability pay such as SSDI (Social Security Disability Income), a veteran's disability benefit or workers compensation for a work-related injury?	1	2	9
95. Unemployment compensation because you were laid off from a job?	1	2	9
96. Income from casual work or under-the-table jobs? These might include babysitting, housecleaning, or working in exchange for food.	1	2	9
97. Food stamps or money for food on the link card?	1	2	9
98. Cash from public aid including AFDC or TANF (Aid to Families with Dependent Children or Temporary Assistance to Needy Families)?	1	2	9

[If respondent currently receives TANF, Q91=1, then **SKIP to Q100**]

99. Have you ever received cash from [NAME OF STATE WELFARE PROGRAM] including AFDC or TANF as an adult?
   1 Yes
   2 No **SKIP TO Q101**

100. How many years or months in total have you received public aid (AFDC or TANF)?
   _____ _____ years
   _____ _____ months
   DON'T KNOW 98
   REFUSED 99

101. Do you have a valid driver's license?
   Yes 1
   No 2
   DON'T KNOW 8
   REFUSED 9

102. Do you own or have access to a car that runs?
   Yes 1
   No 2

DON'T KNOW 8
REFUSED 9

HEALTH QUESTIONS

The next few questions ask about your health.

103.In general, would you say your health is:

1 Excellent
2 Very good
3 Good
4 Fair
5 Poor

104.Compared to one year ago, how would you rate your health in general now?

1 Much better now than one year ago
2 Somewhat better now than one year ago
3 About the same as one year ago
4 Somewhat worse now than one year ago
5 Much worse now than one year ago

105.Has a doctor or other health professional ever told you that you or anyone in your household has asthma?

1 Yes
2 No
3 Don't Know
4 No Answer

106.During the past 6 months, have you or has anyone in your household had an episode of asthma or an asthma attack?

1 Yes
2 No
3 Don't Know
4 No Answer

107.During the past 6 months, have you or has anyone in your household visited the emergency room or urgent care center because of asthma?

1 Yes
2 No
3 Don't know
4 No Answer

Now, I 'd like to ask you some questions about yourself. For each of these statements do you think, please tell me if you think it is true or false.

	Strongly Agree	Somewhat Agree	Somewhat Disagree	Strongly Disagree
108.Good luck is more important than hard work for success	1	2	3	4
109.Every time I try to get ahead, something stops me	1	2	3	4
110.When I make plans, I can usually carry them out	1	2	3	4
111.Planning only makes people unhappy because plans hardly ever work out anyway	1	2	3	4

Background Information

I'd like to end with a few background questions about you and your household.

112.What is your gender?

1 male
2 female

113.In what year were you born?

19 ___ ___

REFUSED 99

114.I'd like you to tell me which category best estimates your total household income for 1999. Please include all income including money earned from jobs, public assistance, or social security. In 1999, what was your income, before taxes?

1 Less than $5,000
2 $5,000 to $9,999
3 $10,000 to $14,999
4 $15,000 to $19,999
5 $20,000 to $29,999
6 $30,000 to $39,999$40,000 or more
7 DON'T KNOW
8 REFUSED

115.Would you describe your ethnicity as

1 Hispanic or Latino/a
2 Non-Hispanic or Latino/a
3 REFUSED

116.How would you describe your race?

1 White
2 Black or African American
3 American Indian or Alaska Native
4 Asian
5 Native Hawaiian or Pacific Islander
6 Other (SPECIFY) _____
7 REFUSED

117.How many children, age 6 or under, live with you? ___ ___ children

118.How many children, between ages 7 and 17, live with you? ___ ___ children

119.How many adults, age 18 or older, live with you? ___ ___ adults

120.What is the highest grade or year of school you have completed?

None								00
Grade School	01	02	03	04	05	06	07	08
High School					09	10	11	12
College					13	14	15	16
Some graduate school								17
Graduate or professional degree								18
DON'T KNOW								98
REFUSED								99

121.And last, are you currently . . .

1 married
2 not married, but living with partner
3 widowed
4 divorced
5 separated
6 never married, living alone

Thank you for taking the time to participate in our survey.

[FR Doc. 00–17083 Filed 7–5–00; 8:45 am]
BILLING CODE 4210–33–C

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Final Report and Recommendations of the Working Group on the Endangered Species Act and Indian Water Rights

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of availability and request for comments.

SUMMARY: The Department of the Interior is making available to the public and seeking comments on the Final Report and Recommendations of the Working Group on the Endangered Species Act (ESA) and Indian Water Rights. This Working Group of five agency employees within the Department was appointed in 1997 to look at implementation of the ESA in relation to the exercise of Indian water rights in the West.

DATES: Comments on the Final Report and Recommendations should be submitted by October 4, 2000.

ADDRESSES: Comments should be submitted to S. Elizabeth Birnbaum, Special Assistant to the Solicitor, U.S. Department of the Interior, 1849 C Street, NW, Room 6352, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: S. Elizabeth Birnbaum at (202) 208–4423 or Timothy A. Vollmann at (505) 346–2700.

SUPPLEMENTARY INFORMATION: In 1997 the Secretary of the Interior asked the Department's Solicitor to put together a Working Group, chaired by Southwest Regional Solicitor Tim Vollmann, to examine the issue of the implementation of the ESA in relation to the exercise of Indian water rights in the West, and evaluate the process and criteria for the development of environmental baselines pursuant to section 7 of the ESA and existing regulations. The Working Group was also asked to prepare a case study of this issue in the upper Colorado River Basin. Beginning in August 1999, a draft of the Working Group's Report and Recommendations and the draft case study were released to Indian tribes, state officials, and members of the public, and comments were solicited. The Working Group has now completed its Final Report and Recommendations and submitted them to the Secretary.

The Department is seeking public comment on this Final Report and Recommendations. The case study on the upper Colorado River Basin is an appendix to the Report. A 90-day period is established for the transmittal of written comments to the above address. No action will be taken to implement any of the Recommendations of the Working Group until all comments have been received and analyzed.

Copies of the Final Report and Recommendations are being mailed to western Indian tribes, State Attorneys General, and the heads of western State water resource departments, in addition to all persons who submitted written comments on the Working Group's draft Report and Recommendations. Additional copies may be requested from S. Elizabeth Birnbaum, Special Assistant to the Solicitor, U.S. Department of the Interior, 1849 C Street, NW, Room 6352, Washington, DC 20240. These documents have also been made available on the U.S. Department of the Interior website at *http://www.doi.gov/feature/es_wr/index1.html.*

John D. Leshy,

Solicitor.

[FR Doc. 00–16986 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act (PRA)

ACTION: Information Collection Renewal.

SUMMARY: The U.S. Fish and Wildlife Service (Service) plans to submit the collection of information requirement described below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (PRA). You may obtain copies of the collection requirement and related forms and explanatory material by contacting the Service's Information Collection Clearance Officer at the phone number listed below. The Service is soliciting comment and suggestions on the requirement as described below.

DATES: Interested parties must submit comments on or before September 5, 2000.

ADDRESSES: Interested parties should send comments and suggestions on the requirement to Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203, (703) 358–2278 or *Rebecca_Mullin@fws.gov* E-mail.

FOR FURTHER INFORMATION CONTACT: Jack Hicks, (703) 358–1851, fax (703) 358–1837, or *Jack_Hicks@fws.gov* E-mail.

SUPPLEMENTARY INFORMATION:

Title of Forms: Summary Information for Ranking National Coastal Wetlands Conservation Grant Program Proposals.

Description and Use: The Service administers the National Coastal Wetlands Conservation Grant program authorized by the Coastal Wetlands Planning, Protection and Restoration Act. The Service uses the information collected to evaluate proposals under this program. This includes summarized information on habitat, coastal barriers, levels of conservation, watershed management, threatened and/or endangered species potentially involved, benefits of the restoration proposed, partners, cost sharing, education/outreach impact, impact on wildlife-oriented recreation and other benefits and determining if the estimated cost is reasonable.

Service Form Numbers: 3–2179 (Summary Information for Ranking National Coastal Wetlands Conservation Grant Program Proposals).

Supplementary Information: The service plans to submit the following information collection requirements to OMB for review and approval under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Frequency: Generally annually.

Description of Respondents: States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

BILLING CODE 4310–55–M

Summary Information for Ranking National Coastal Wetlands Conservation Grant Program Proposals

Title: _____

Costs: Federal _____ State _____ Other _____

Total _____

Summary: Include a 2-5 sentence paragraph describing the project and its resource benefits.

(1) **Wetlands Conservation: What is the breakdown by habitat type for the wetlands being conserved?**

Habitat type	Number of acres	Percentage of total project area
Declining coastal wetlands		
Stable coastal wetlands		
Total wetlands		
Upland		
Total project acres		

(2) **Maritime Forest on Coastal Barriers: What plant species are present that are indicative of maritime forest as defined in the criteria?**

Common name	Scientific name	Prevalence (rare, common, predominant)

Form 3-2179
06-00

OMB Approval Number 1018-____
Approval Expires xx/xx/xxxx

(3) **Long-term conservation: How long will the habitat benefits be provided by the project?**

	Benefits in perpetuity (number of acres)	Benefits for 26-99 years (number of acres)	Benefits for 10-25 years (number of acres)
Easements			
Fee-title (no restoration)			
Fee-title (that will also be restored)			
Not acquired, Restored only			
Not acquired, Enhanced only			
Other (please explain)			
Total			

(4) **Coastal watershed management: How will this project help achieve the goals of specific management plans and efforts?**

Management plan or effort	How this project helps implement its goals

(5a) **Conservation of threatened and endangered species: What are the benefits to federally listed species, candidates, or recently delisted species?**

Common name	Scientific name	Status	Project benefits	Does the project support goals of a Recovery Plan or HCP? List plan and goal.

(5b) **What are the benefits to State species of concern?**

Common name	Scientific name	Status	Project benefits	Does the project support goals of a specific Recovery Plan? List plan and goal.

(6) **Benefits to fish: What are benefits to anadromous, interjuristictional, and other important species?**

Common name	Scientific name	Project benefits	Does the project help meet specific management goals? List plan and goal.

(7) **Coastal-dependent or migratory birds: What are the benefits to specific coastal-dependent or migratory species?**

Common name	Scientific name	Benefits	Does project help meet the goals of a specific management plan? List plan and goal.

(8) **Prevent or reduce contamination: What are the contaminants benefits?**

Contaminant	Benefits	Does project help meet the goals of a specific management plan? List plan and goal.

(9) **Catalyst for future conservation: What other conservation efforts that would benefit from this project?**

Projects	Benefits

(10) **Partners in conservation: What are the sources and amounts of financial support being provided by partners?**

Organizations/individuals providing match	Monetary value of support

(11) **Federal share reduced: Is the Federal match share reduced by contributions from State and other non-Federal sources? To what extent? (See instructions for guidance on the calculation.)**

Total project costs	
Required State match	
Additional cash contribution	
* Percent increase over required match	

(12) **Education/outreach or wildlife-oriented recreation: What site-specific educational or outreach programs or wildlife-oriented recreation programs or products are made possible by this project?**

Site-specific programs or products	Audience/Participants	Estimated size of audience/participants

(13) **Other factors: What other benefits does the project provide?**

Other factors	How the project addresses them

Other considerations/tie-breakers:

1) **Is the habitat imminently threatened?**

Yes ___ No ___

Threat(s)	Severity

2. **Does the site have unique and significant diversity?**

Yes ___ No ___

Unique biodiversity	Supportive evidence

3) **What are the costs per acre?** (Lesser costs would be preferable, all other factors being equal).

Habitat conservation approach	Costs per acre
Acquisition	
Easements	
Restoration	

4a) **Are there new sources of funds, lands, or services are being applied to this project?** (As opposed to lands already owned by the State or third party that are being offered as match).

Yes ___ No___

(4b) **What percentage of the funds, lands, or services is new?** _____percent.

INSTRUCTIONS FOR SUMMARY INFORMATION FOR RANKING
NATIONAL COASTAL WETLANDS CONSERVATION GRANT PROGRAM PROPOSALS

A. Prepare your grant proposal and transfer the information from the proposal to this form.

B. Guidance and examples for calculation for question #11.

NOTE TO APPLICANTS AND REVIEWERS: *The purpose of this criteria is to increase the amount of match dollars from non-Federal sources. This decreases the need for Federal match dollars, so that Federal dollars can help more projects.*

Documentation of each partner's financial commitment must accompany the proposal to receive points.

If the State itself provides the excess match they should receive credit for reducing the Federal share.

Each 5 percent above the required match would be approximately equal to 1 point.

The following two examples, using both a 50 and 75 percent Federal match share, define a 10 percent increase in a State's match amount.

EXAMPLE 1 - 50 Percent Federal Match

If the total project costs are:	$ 100,000
Then the required State match share is:	$ 50,000
If the State or a partner provides an additional cash contribution equal to 10 percent of the $50,000*:	$5,000

This is defined as a 10 percent increase in the State match

EXAMPLE 2 - 75 Percent Federal Match

If the total project costs are:	$ 100,000
Then the required State match share is:	$ 25,000
If the State or a partner provides an additional cash contribution equal to 10 percent of the $25,000*:	$2,500

This is defined as a 10 percent increase in the State match.

* *From sources other than Federal agencies. Natural Resource Damage Assessment funds may in some cases be defined as "non-Federal." See discussion under 50 CFR 84.46 "What are the cost sharing requirements?"*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 350 1) and the Privacy Act of 1974 (U.S.C. 552), please be advised that:

The gathering of information from applicants to gain benefits is authorized under the Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777-777k) and the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669-669i). Information from this form will be used to formalize and execute Grant Agreements and Amendment to Grant Agreements issued under these and other Acts. Your participation in completing this form is required to obtain benefits. Once submitted this form becomes public information and is not protected under the Privacy Act. The public reporting burden for this form is estimated at one hour per response, including time for gathering information, completing, reviewing and obtaining signature. Direct comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222-ARLSQ; 1849 C Street N.W., Washington, D.C. 20240, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention Desk Officer for the Department of the Interior, (1018-XXXX), 725 17th Street N.W., Washington, D.C. 20503.

An agency may not conduct and a person is not required to complete a collection of information unless a currently valid OMB control number is displayed.

Completion Time and Annual Response and Burden Estimate:

Form name	Completion time per form	Annual response	Annual burden
Summary Information for Ranking National Coastal Wetlands Conservation Grant Program Proposals.	½ hour	35 Forms	17½ Hours.

While the summary form is five pages long, the ½ hour estimated burden is accurate. Agencies applying for grants will have all of the information readily available in the proposals they have prepared.

Dated: June 15, 2000.

Rebecca Mullin,

Service Information Collection Officer.

[FR Doc. 00–16678 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–55–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Extension of Approved Information Collection, OMB Number 1018–0093, on Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service is announcing its intention to request renewal of its existing approval to collect certain information from applicants who wish to obtain a permit to conduct activities under a number of wildlife conservation laws, treaties and regulations. We will submit the collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1995. If you wish to obtain copies of the proposed information collection requirement, related forms, and explanatory material, contact the Collection Clearance Officer at the address listed below.

DATES: You must submit comments on or before September 5, 2000.

ADDRESSES: Send your comments and suggestions on specific requirements to the Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 222–ARLSQ; 4401 N. Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin, Collection Clearance Officer at 703–358–2287, or electronically to *rmullin@fws.gov*.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. We plan to submit a request to OMB to renew its approval of the collection of information for the Service's license/permit application form number 3–200–19 through 3–200–25 and 3–200–27 through 3–200–53. We are requesting a 3-year term of approval for this information collection activity.

We modified the format of the first page of the application form so that the information fields on the form correspond to the data fields in our Service-wide permits issuance and tracking computer system. We also modified the format and content of the supplemental page(s) of the application forms for clarity and to be less burdensome to complete.

We invite comments concerning this renewal on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond. The information collections in this program are part of a system of record covered by the Privacy Act [5 U.S.C. 552 (a)].

The information on the application and the attachments will be used by the Service to review permit applications and allow the Service to make an assessment according to criteria established in various Federal wildlife conservation laws, treaties and regulations, on the issuance, suspension, revocation or denial of permits.

Federal agencies 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 number for this collection of information is 1018–0093.

The information collection requirements in this submission implement the regulatory requirements of the Endangered Species Act (16 U.S.C. 1539), the Migratory Bird Treaty Act (15 U.S.C. 704), the Lacey Act (18 U.S.C. 42–44), the Bald and Golden Eagle Protection Act (16 U.S.C. 668), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), (27 UST 108), the Marine Mammal Protection Act (16 U.S.C. 1361–1407), and Wild Bird Conservation Act (16 U.S.C. 4901–4916), and are contained in Service regulations in Chapter I, Subchapter B of Title 50 Code of Federal Regulations (CFR). Common permit application and record keeping requirements have been consolidated in 50 CFR 13, and unique requirements of the various statutes in the applicable part as described in the table.

Permit No.	Activity	Total number of respondents	Estimated time (in hours)	Total annual burden hours	Regulation
3–200–19	Import of Sport-Hunted Trophies of Southern African Leopard, African Elephant, and Namibian Southern White Rhinoceros.	1,000	[1] .333	333	50 CFR 17.40(e), 17.40(f), 23.11, 23.12 and 23.15.
3–200–20	Import of Sport-Hunted Trophies (Appendix I of CITES and/or ESA).	30	1	30	50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12 and 23.15.
3–200–21	Import of Sport-Hunted Trophies of Argali	50	[4] .750	37.5	50 CFR 17.31, 17.32 and 17.40(j).
3–200–22	Import of Sport-Hunted Bontebok Trophies ..	60	.333	20	50 CFR 17.21 and 17.22.

Permit No.	Activity	Total number of respondents	Estimated time (in hours)	Total annual burden hours	Regulation
3–200–23	Export of Pre-Convention Specimens (Pre-Act or Antiques).	800	[3] .666	533	50 CFR 14.22, 17.4, 18.14, 23.11, 23.13(c) and 23.15.
3–200–24	Export of Live Captive-Born Animals (Convention on International Trade in Endangered Species).	800	.666	533	50 CFR 23.11, 23.12 and 23.15.
3–200–25	Export of Raptors	100	2	200	50 CFR 21.21, 21.29, 23.11, 23.12 and 23.15.
3–200–27	Export/Re-export of Wildlife (Convention on International Trade in Endangered Species).	800	.666	533	50 CFR 23.11, 23.12 and 23.15.
3–200–28	Export/Re-export of Trophies by Taxidermist (Convention on International Trade in Endangered Species).	150	[2] .5	75	50 CFR 23.11, 23.12 and 23.15.
3–200–29	Export/Re-Export of Wildlife Samples (CITES and/or ESA).	300	1	300	50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12, 23.13 and 23.15.
3–200–30	Circuses and Traveling Animal Exhibitions ...	120	1	120	50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12, 23.13 and 23.15.
3–200–31	Introduction from the Sea (Convention on International Trade in Endangered Species).	40	1	40	50 CFR 23.11, 23.12, and 23.15.
3–200–32	Export/Re-export of Plants	40	1	40	50 CFR 23.11, 23.12, 23.13 and 23.15.
3–200–33	Certificate for Artificially Propagated Plants ..	48	2	96	50 CFR 17.61, 17.62, 17.71, 17.72, 23.11, 23.12, 23.13 and 23.15.
3–200–34	Export of American Ginseng	80	.333	27	50 CFR 23.11, 23.12, 23.13, 23.15 and 23.51.
3–200–35	Import of Appendix-I Plants (Convention on International Trade in Endangered Species).	2	1	2	50 CFR 23.11, 23.12, 23.13 and 23.15.
3–200–36	Export/Import/Interstate and Foreign Commerce of Plants (ESA and/or CITES).	2	1	2	50 CFR 17.61, 17.62, 17.71, 17.72, 23.11, 23.12 and 23.15.
3–200–37	Export/Import/Interstate and Foreign Commerce of Animals (ESA and/or CITES).	60	2	120	50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12 and 23.15.
3–200–38	Import of Wildlife Samples (Appendix I of CITES and/or ESA).	30	1	30	50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12 and 23.15.
3–200–39	Certificate of Scientific Exchange (Convention on International Trade in Endangered Species).	30	1	30	50 CFR 23.11, 23.13(g) and 23.15.
3–200–40	Export and Re-import of Museum Specimens (U.S. Endangered Species Act).	10	1	10	50 CFR 17.21, 17.22, 17.31, 17.32, 17.61, 17.62, 17.71 and 17.72.
3–200–41	Captive-Bred Wildlife Registration (U.S. Endangered Species Act).	50	5	1,250	50 CFR 17.21(g) and 17.31.
***Note:** There is an annual reporting requirement of this registration (3–200–41 50 applicants—3 hours+2hours reporting; and 3–200–41a 500 reporters—2 hours)					
3–200–42	Import/Transport of Injurious Wildlife	20	2	40	50 CFR 16.22.
3–200–43	Take/Import/Transport/Export of Marine Mammals.	20	4	120	50 CFR 18.11, 18.22, 18.31, 17.21, 17.22, 17.31, 17.32, 23.11, 23.12, 23.13 and 23.15.
***Note:** There is an annual reporting requirement. There is not a specific required form. Required information to be submitted is outlined on the permit (20 reporters/year at 2 hours per report).					
3–200–44	Registration of an Agent/Tannery (Marine Mammal Protection Act).	10	.500	35	50 CFR 18.11, 18.12 and 8.23(d).
***Note:** There is an annual reporting requirement of this registration (3–200–44—.500 hours; 3–200–44a 30 reporters—1 hours).					
3–200–45	Import of Sport-Hunted Polar Bear Trophies	100	.500	50	50 CFR 18.11, 18.12 and 18.30.
3–200–46	Import/Export of Personal Pets (CITES and/or Wild Bird Conservation Act).	700	.500	350	50 CFR 15.11, 15.12, 15.21, 15.25, 23.11, 23.12, and 23.15.
3–200–47	Import or Birds for Scientific Research or Zoological Breeding and Display (Wild Bird Conservation Act).	25	2	50	50 CFR 15.11, 15.12, 15.21, 15.22 and 15.23.

Permit No.	Activity	Total number of respondents	Estimated time (in hours)	Total annual burden hours	Regulation
3–200–48	Import of Birds Under an Approved Cooperative Breeding Program (Wild Bird Conservation Act).	25	1	50	50 CFR 15.11, 15.12, 15.21 and 15.24.
3–200–49	Approval of a Cooperative Breeding Program (Wild Bird Conservation Act).	25	3	75	50 CFR 15.11, 15.12, 15.21 and 15.26.
3–200–50	Approval of Scientifically Based Sustainable Use Management Plans (Convention on International Trade in Endangered Species).	10	10	100	50 CFR 15.11, 15.12, 15.21 and 15.32.
3–200–51	Approval of Foreign Breeding Facilities Under the Wild Bird Conservation Act.	20	12	240	50 CFR 15.11, 15.12, 15.21 and 15.41.
3–200–52	Reissuance or Renewal of a Permit or Certificate.	400	.250	100	50 CFR 13.21 and 13.22.
3–200–53	Export/Re-export of Captive-Held Marine Mammals (Convention on International Trade in Endangered Species).	30	2	60	50 CFR Part 18, 23.11, 23.12, 23.13 and 23.15.

[1] 20 minutes.
[2] 30 minutes.
[3] 40 minutes.
[3] 45 minutes.

Approval Number: 1018–0093.

Service Form Number: 3–200–19 through 3–200–53.

Frequency of Collection: On Occasion.

Description of Respondents: Individuals, biomedical companies, circuses, zoological parks, botanical gardens, nurseries, museums, universities, scientists, antique dealers, Exotic pet industry, hunters, taxidermists, commercial importers/exporters of wildlife and plants, freight forwarders/brokers, local, State, tribal and Federal governments.

Total Annual Burden Hours: 5606.5.

Total Annual Responses: 5987.

Dated: June 23, 2000.

Kenneth Stansell,

Acting Assistant Director—International Affairs.

[FR Doc. 00–16912 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the National Wildlife Refuge System Improvement Act of 1997, the U.S. Fish and Wildlife Service has published a Revised Draft Comprehensive Conservation Plan and Environmental Assessment for the Edwin B. Forsythe and Cape May National Wildlife Refuges in New Jersey. This plan describes how the Service intends to manage the Forsythe and Cape May Refuges for the next 15 years.

DATES: A formal public hearing will be held at 7 PM on July 19, 2000. The hearing will provide an opportunity for all interested parties to present oral or written testimony on the revised draft document before a hearing officer and court reporter. Those wishing to do so will be able to sign up to speak when they enter the hearing room. This formal public hearing will be held at: Absegami High School, 201 South Wrangleboro Road, Galloway Township, Atlantic County, New Jersey.

All other comments should be sent by either traditional or electronic mail, no later than August 4, 2000, to: The Jersey Coast Refuges Planning Team, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, MA 01035–9589, or FW5RW_CCP@fws.gov.

ADDRESSES: Additional information or copies of an executive summary of the plan or the complete document may be obtained by contacting Steve Atzert, Edwin B. Forsythe National Wildlife Refuge, P.O. Box 72, Great Creek Road, Oceanville, New Jersey 08231–0072, telephone 609/652–1665.

SUPPLEMENTARY INFORMATION: The Service's Proposed Action and two other alternatives are described, along with the process used to develop them and the environmental consequences of implementing each one. The three alternatives are:

Alternative A. This is the No Action Alternative required by the Council of Environmental Quality's regulations on the implementation of the National Environmental Policy Act (NEPA). Selection of this Atlernative would mean that there would be no change from our current management programs and emphasis at both Refuges. Seasonal travel and parking of motor vehicles would continue to be allowed in the Holgate Unit of the Brigantine Wilderness Area, on lands above mean high tide, in violation of the Wilderness Act of 1964.

Alternative B. Alternative B is the Service's Proposed Action. This Alternative would initiate new wildlife population and habitat management programs; provide new wildlife-dependent recreation opportunities; increase our land protection efforts; and provide new office and visitor facilities at both Refuges. All lands above mean high tide in the Holgate Unit of the Brigantine Wilderness Area would be closed to motor vehicle use by the public year-round in compliance with the provisions of the Wilderness Act. We would initiate efforts to establish a seasonal boat concession to ferry anglers and other Refuge visitors to the southern tip of the Holgate Peninsula.

Alternative C. This Alternative would initiate new wildlife population and habitat management programs; provide new wildlife-dependent recreation opportunities Refuge-wide; increase our land protection efforts; and provide new or remodeled office and visitor facilities at both Refuges. All lands above mean high tide in the Holgate Unit of the Brigantine Wilderness Area would be closed to motor vehicle use by the public year-round in compliance with the provisions of the Wilderness Act. We would also seek to further restrict motor vehicle access at the Holgate Unit by obtaining a license from the New Jersey Tidelands Council to close State-owned riparian lands below the mean high tide line. Efforts would be initiated to establish a seasonal boat concession to ferry anglers and other Refuge visitors

to the southern tip of the Holgate Peninsula.

Dated: June 27, 2000.

Mamie A. Parker,

Acting Regional Director, Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. 00–17013 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Habitat Conservation Plan and Receipt of an Application for an Incidental Take Permit for the Beaver Creek Tract, Lincoln County, Oregon

AGENCY: Fish and Wildlife Service.

ACTION: Notice of receipt of application.

SUMMARY: This notice advises the public that Coast Range Conifers, LLC (CRC or applicant) has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA). The application has been assigned permit number TE–028956–0. The proposed permit would authorize the incidental take, in the form of habitat modification (harm) and disturbance (harass), of the bald eagle (*Haliaeetus leucocephalus*) which is federally listed as threatened.

The Service announces the receipt of the applicant's incidental take permit application and the availability of the Coast Range Conifers Beaver Tract Habitat Conservation Plan (Beaver Tract Plan) and draft Implementation Agreement, which accompany the incidental take permit application, for public comment. The Beaver Tract Plan describes the proposed project and the measures the applicant will undertake to minimize for project impacts to the bald eagle. These measures and associated impacts are also described in the background and summary information that follow. The Service is presently conducting the National Environmental Protection Act (NEPA) process and will announce the availability of NEPA compliance documentation soon.

DATES: Written comments on the permit application and Plan should be received on or before August 7, 2000.

ADDRESSES: Individuals wishing copies of the permit application or copies of the full text of the Beaver Tract Plan, should immediately contact the office and personnel listed below. Documents also will be available for public inspection, by appointment, during normal business hours at the address below. Comments regarding the permit application, draft Implementation Agreement or the Beaver Tract Plan should be addressed to State Supervisor, Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Suite 100, Portland, Oregon 97266. Please refer to permit number TE–028956–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Rich Szlemp, Fish and Wildlife Service, Oregon State Office, telephone (503) 231–6179.

SUPPLEMENTARY INFORMATION: Section 9 of the ESA and Federal regulation prohibits the ''taking'' of a species listed as endangered or threatened. However, the Service, under limited circumstances, may issue permits to ''incidentally take'' listed species, which is take that is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species are promulgated in 50 CFR 17.32.

Summary of the Beaver Tract Plan

The applicant is proposing to harvest about 12 acres of mature forest approximately 80 to 140 years old within a 40-acre parcel of land. There are approximately 5 to 10 old growth Sitka spruce and Douglas-fir trees present in the proposed harvest area. The surrounding ownership consists of commercial timber lands containing forests of various age classes. The Beaver Tract Plan area contains one known bald eagle nest tree and several other trees that could be utilized as nest or roost trees. Other listed species that may also be affected by the proposed Beaver Tract Plan, but potentially may not be fully addressed, include the threatened marbled murrelet (*Brachyramphus marmoratus*) and northern spotted owl (*Strix occidentalis caurina*) (spotted owl). Please refer to ''Summary of Service's Concerns and Recommendations'' below for additional discussion on this topic.

The Beaver Tract Plan contains two alternatives: preferred and no action. Under their preferred alternative, the applicant would harvest 12 acres of mature timber to the extent allowed by the Bald and Golden Eagle Protection Act (Eagle Act), Migratory Bird Act, and Oregon Forest Practice Act (OFPA) Rules. Under the no action alternative, the subject timber would be left standing to provide bald eagle habitat. The applicants rejected the no action alternative because they believe it would deny them of all economically productive use of the subject timber.

The applicants propose the following minimization and mitigation measures:

a. Retaining the bald eagle nest tree and two snags or green trees per acre, 30 feet or greater in height and 11 inches or greater in diameter.

b. Conducting harvest activities outside of the period March 1 to September 15, except for road building.

c. Replant Douglas-fir, western red cedar, and/or western hemlock over the harvest units. As per OFPA Rules, this planting will take place within 12 months after completion of harvest.

d. Meet the current OFPA Rules to leave all snags and standing dead trees unharvested until they have fallen to the ground and rotted away, except when they represent a safety hazard for the logging operation.

Additional Background

CRC submitted a written plan on or about June 30, 1998, to the Oregon Department of Forestry to harvest the Beaver Tract to within 330 feet of the bald eagle nest site. The State Forester rejected that written plan on the basis that it did not provide adequate protection for the bald eagle nest site. The State Forester required that a forested buffer of 400 feet around the nest tree and an additional 100 foot band in which 50 percent of the live trees would be retained. CRC proceeded to harvest the 28 acres surrounding the bald eagle nest site, which retained the 12 acres (400 foot radius circle) that are the subject of this incidental take permit application. Oregon law allows (but does not require) the State Forester to approve logging within these protected 12 acres if a landowner receives an Federal incidental take permit.

Summary of Service's Concerns and Recommendations

The Service received the Plan and application on December 28, 1999. Unlike most Plans, the Beaver Tract Plan was prepared without any opportunities for the Service to provide technical assistance prior to the submission of the application. A revised Beaver Tract Plan was received on May 18, 2000, in response to the Service's April 18, 2000, request for clarification of items in the original Beaver Creek Tract Plan. The revised Beaver Tract Plan lacks much of the biological analysis and information routinely provided by other applicants to expedite processing an incidental take permit.

The Service has reviewed the Beaver Tract Plan and has some concerns with the adequacy of the proposed minimization and mitigation measures. We specifically invite the public to

provide comments on the measures proposed by the applicant.

As stated in the Beaver Tract Plan, the impacts from the proposed harvest would likely eliminate the site as bald eagle habitat, other than the retention of the nest tree. While it is not specifically stated, we believe that few if any of the existing old growth trees would likely be retained under the proposed mitigation (*i.e.,* retaining two trees per acre greater than 11 inches in diameter). Based upon the proposed harvest and the above assumption regarding tree retention, the ability of the site to continue to provide a suitable nest site for bald eagles post-harvest is difficult to accurately assess. However, the harvest is likely to increase the likelihood of the nest tree and any other large standing trees to be subject to blowdown or windthrow due to exposure. Furthermore, it is not uncommon for bald eagles to have more than one nest site and multiple roosting sites in an area. The proposed harvest would diminish the availability of roost sites and alternate nest sites. We believe that the harvest proposed in the Plan would violate the Bald and Golden Eagle Protection Act.

The Service believes that other practicable minimization measures exist. In our April 18, 2000, letter to CRC we suggested adding the following alternative under which we believe we could likely issue an incidental take permit and comply with both the ESA and the Bald and Golden Eagle Protection Act. This alternative protects the bald eagle nest tree from harvest and likely damage associated with harvest in the Beaver tract. The prescription is as follows: the nest tree would not be harvested. All trees that could come in contact with and damage the nest tree if they were felled, would not be harvested. (Directional felling would not exclude any trees from this component). For example, if a tree is 100 feet tall and is located less than 100 feet from the nest tree, then the tree would not be cut. If a tree is 100 feet tall and is located greater than 100 feet from the nest tree, then that tree is eligible to be cut pending a risk analysis for windthrow (see next criteria). The applicant would have to consider whether the removal of any trees in the tract would increase the likelihood of windthrow of the bald eagle nest tree, or any other nearby trees that could be windthrown and result in damage to the bald eagle nest tree. While we understand that windthrow can occur within any stand, regardless of its composition, we know that certain harvest prescriptions can predictably lead to a much greater likelihood of susceptibility to windthrow. Measures can be taken when devising a harvest prescription to limit the increased likelihood of windthrow. We believe this alternative would retain a sufficient area around the nest tree to maintain the integrity of the nest site, alternate nest trees, and multiple roost sites and perches. The intent of this prescription is to maintain a sufficiently sized patch of habitat that is likely to provide important structural components for bald eagle breeding habitat, while also providing some level of confidence that timber operations and future weather events are not likely to effect the existing nest tree and the area immediately surrounding the nest tree. CRC responded through their legal counsel that no further changes would be made to the Beaver Tract Plan. We believe that other alternatives are available. However, these alternatives are likely to require an examination of the stand or a detailed stand inventory, and a discussion with the landowner and/or their legal representative. Because bald eagles are presumed to be nesting as of the date of this notice, we would not suggest visiting the site until after nesting activities are completed for the season.

Any alternative we recommend or consider would have to incorporate a seasonal restriction. We consider the breeding season for bald eagles to be anytime from January 1 through August 31 which is based upon their breeding biology. The seasonal restriction being proposed by the applicant is from March 1 through September 15. This time period does not capture the important period of time in January and February when bald eagles engage in breeding activities that may include establishing territories, pair bonds, and nest construction.

The Service has not made a determination as to whether the proposed Beaver Tract Plan may affect spotted owls or marbled murrelets. The Beaver Tract Plan concludes that the plan area is not sufficient to support spotted owls and that take of spotted owls was previously addressed in a section 7 consultation under the ESA that was conducted on the exchange of this parcel from the U. S. Forest Service to CRC and was completed on February 13, 1996. The Beaver Tract Plan states that no marbled murrelets have been seen in the area and that incidental take of murrelets was also addressed in the above referenced section 7 consultation.

The land exchange section 7 consultation was based upon protocol-based surveys conducted in 1995 and 1996. At that time, it was determined that no spotted owls were using the area. Also at that time, it was determined that marbled murrelets were not using the area, although there was one detection of murrelets. The nature of this detection did not lead to a determination of occupancy or warrant additional surveys. The ''Protocol for Surveying Proposed Management Activities that may Impact Northern Spotted Owls'', dated March 17, 1992, and endorsed by the Service, states that 2-year surveys (which were done for the Beaver Tract in 1994–1995) are valid for 2 additional years before resurveying would be required. The ''Methods for Surveying Marbled Murrelets in Forests: An Update to the Protocol for Land Management and Research'', dated April 15, 2000, by the Pacific Seabird Group, states that for areas surveyed and not determined to be occupied, resurveying is recommended after 5 years. Because 5 years has elapsed since the last known spotted owl and murrelet surveys covering the Beaver Tract, there is some uncertainty as to the likelihood of this property currently providing habitat for either of these two species. Because of this uncertainty, we request that the results of any surveys conducted for spotted owls or murrelets that were completed within the past 5 years and that covered the general vicinity of the Beaver Tract be submitted to the Service and CRC.

The Beaver Tract Plan calls for the harvest of approximately 12 acres. However, the Oregon State Forester required that a 400-foot no-cut buffer (12 acres) with an additional 100-foot buffer in which only 50 percent of the live trees could be removed. A 500-foot radius circle is approximately 18 acres. Therefore, there is some confusion as to what amount of forest is currently left standing on the Beaver Tract and potentially what 12 acres are being proposed for harvest.

This notice is provided pursuant to section 10(c) of the Act. The Service will evaluate the permit application, Plan, and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued for the incidental take of the bald eagle.

Dated: June 29, 2000.

David L. McMullen,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 00–17014 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Ballast Water and Shipping Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Ballast Water and Shipping Committee of the Aquatic Nuisance Species Task Force. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The Committee will meet from 10 a.m. to 3 p.m., Tuesday, July 18, 2000.

ADDRESSES: The meeting will be held at the Coast Guard Headquarters, Room 2415, 2100 Second Street, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: LT Mary Pat McKeown, U.S. Coast Guard, Chair, Ballast Water and Shipping Committee, at 202–267–0500 or by email at mmckeown@comdt.uscg.mil or Sharon Gross, Executive Secretary, Aquatic Nuisance Species Task Force at 703–358–2308 or by e-mail at: sharon _gross@fws.gov

SUPPLEMENTARY INFORMATION: Pursuant to sectiotn 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Aquatic Nuisance Species Task Force Ballast Water and Shipping Committee. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701–4741). Topics to be addressed at this meeting include briefings and updates on the Ad-Hoc Environmental Soundness Working Group, the Ad-Hoc Workgroup on Ballast Water Treatment Standards, the status of the Great Lakes Ballast Technology Demonstration Project, and a discussion of how aquatic nuisance species removal efficiency values will be developed.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 851, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and the Chair of the Ballast Water and Shipping Committee at the Environmental Standards Division, Office of Operations and Environmental Standards, U.S. Coast Guard (G–MSO–4), 2100 Second Street, SW, room 1309, Washington, DC 20593–0001. Minutes for the meetings will be available at these locations for public inspection during regular business hours, Monday through Friday.

Dated: June 30, 2000.

Cathleen I. Short,

Co-Chair, Aquatic Nuisance Species Task Force, Assistant Director—Fisheries.

[FR Doc. 00–17017 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved Tribal-State Compact.

SUMMARY: Pursuant to Section 11 of the Indian Gaming Regulatory Act (IGRA), Public Law 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III gaming activities on Indian lands. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compacts between the Augustine Band of Mission Indians and the State of California executed on March 15, 2000.

DATES: This action is effective July 6, 2000.

FOR FURTHER INFORMATION CONTACT: George T. Skibine, Director, Office of Indian Gaming Management, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: June 26, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–16985 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–250–1220–PC–24 1A]

OMB Approval Number 1004–0165; Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) On March 30, 2000 BLM published a notice in the **Federal Register** (65 FR 16953) requesting comment on this proposed collection. The comment period ended on May 29, 2000. BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM clearance officer at the telephone number listed below.

OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0165), Office of Information and Regulatory Affairs, Washington, DC 20503. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the Bureau of Land Management, including whether the information will have practical utility;
2. The accuracy of BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and
4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Cave Management: Cave Nominations and Confidential Information (43 CFR Part 37).

OMB Approval Number: 1004–0165.

Abstract: The Department of the Interior, through BLM, proposes to renew the approval of an information collection for an existing rule at 43 CFR part 37. That rule requires that Federal agencies must consult with ''cavers'' and other interested parties to develop a listing of significant caves. The regulations also integrate cave management into existing planning and management processes and provide for the protection of cave resource information in order to prevent vandalism and disturbance of significant caves.

Agency Form Number: None. There is an unnumbered format which entities may use to nominate caves.

Frequency: Once, when nominating the cave or requesting confidential cave information.

Description of Respondents: Respondents ''cavers'' and other

interested parties. Estimated completion time: 3 hour(s) for each nomination and ½-hour for each request for confidential cave information.

Annual Responses: 50 cave nominations and 10 requests for confidential cave information.

Annual Burden Hours: 155.

Bureau Clearance Officer: Shirlean Beshir, (202) 452–5033.

Dated: June 19, 2000.

Shirlean Beshir,

Acting BLM Information Clearance Officer.

[FR Doc. 00–17091 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–01–24 1A]

OMB Approval Number 1004–0004; Notice of Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On March 20, 2000, the BLM published a notice in the **Federal Register** (65 FR 15000) requesting comment on this proposed collection. The comment period ended on May 19, 2000. The BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM information clearance officer at the telephone number listed below; (202) 452–5033.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0004), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Desert-Land Entry (43 CFR part 2520). OMB approval number: 1004–0004.

Abstract: the BLM is proposing to renew the approval of an information collection for an existing rule at 43 CFR part 2520. That rule provides guidelines and procedures for individuals to make desert-land entries to reclaim, irrigate, and cultivate arid and semiarid public lands of the Western United States under the Desert Land Act as amended (43 U.S.C. 231, 321–323, 325, 327–329).

Bureau Form Number: 2520–1.

Frequency: Once.

Description of Respondents: Respondents are individuals.

Estimated Completion Time: 2 hours.

Annual Responses: 17.

Filing Fee Per Response: $15.

Annual Burden Hours: 34.

Bureau Clearance Officer: Shirlean Beshir (202) 452—5033.

Dated: June 21, 2000.

Shirlean Beshir,

Acting BLM Information Clearance Officer.

[FR Doc. 00–17086 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–01–24–1A]

OMB Approval Number 1004–0011; Notice of Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*) On March 20, 2000, the BLM published a notice in the **Federal Register** (65 FR 15002) requesting comment on this proposed collection. The comment period ended on May 19, 2000. The BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM information clearance officer at the telephone number listed below; (202) 452–5033.

The OMB is requested to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirements should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0011), Office of Information and Regulatory Affairs, Washington, DC, 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collection the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Color-of-Title (43 CFR part 2540). OMB approval number: 1004–0011.

Abstract: The BLM is proposing to renew the approval of an information collection for an existing rule at 43 CFR part 2540. That rule provides guidelines and procedures for transferring legal title to public lands administered by the BLM from the United States to eligible individuals, groups, or corporations who have valid claims under the Color-of-Title Act of December 22, 1928 (45 Stat. 1069) as amended by the Act of July 28, 1953 Stat. 227), (U.S.C. 1068–1068b).

Bureau Form Number: 2540–3.

Frequency: Once.

Description of Respondents: Respondents are individuals, groups, or corporations.

Estimated Completion Time: 1 hour.

Annual Response: 20.

Filing Fee Per Response: $10.

Annual Burden Hours: 20.

Bureau Clearance Officer: Shirlean Beshir (202) 452–5033.

Dated: June 23, 2000.

Shirlean Beshir,

Acting BLM Information Clearance Officer.

[FR Doc. 00–17088 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PF–01–24 1A]

OMB Approval Number 1004–0012; Notice of Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction ACt (44 U.S.C. 3501 *et seq.*). On March 20, 2000, the BLM published a notice in the **Federal Register** (65 FR 15003) requesting comment on this proposed collection. The comment period ended on May 19, 2000. The BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM information clearance officer at the telephone number listed below; (202) 452-5033.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0012), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW, Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Recreation and Public Purposes Act (43 CFR part 2740). OMB approval number: 1004–0012.

Abstract: The BLM is proposing to renew the approval of an information collection for an existing rule at 43 CFR Part 2740. That rule provides guidelines and procedures for the transfer of certain public lands under the Recreation and Public Purposes Act as amended (43 U.S.C. 869 *et seq.*).

Bureau Form Number: 2740–1.

Frequency: Once.

Description of Respondents: Respondents are State and local governments, and nonprofit corporation and associations.

Estimated Completion Time: 40 hours.

Annual Responses: 25.

Filing Fee Per Response: $100.

Annual Burden Hours: 1,000

Bureau Clearance Officer: Shirlean Beshir (202) 452–5033.

Dated: June 21, 2000.

Shirlean Beshir,

Acting BLM Information Clearance Officer.

[FR Doc. 00–17089 Filed 7–05–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–01–24–1A]

OMB Approval Number 1004–0029; Notice of Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) On March 20, 2000, the BLM published a notice in the **Federal Register** (65 FR 15005) requesting comment on this proposed collection. The comment period ended on May 19, 2000. The BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM information clearance officer at the telephone number listed below; (202) 452–5033.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0029), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW, Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;

2. The accuracy of the BLM's estimate of the burden of collection the information, including the validity of the methodology and assumptions used;

3. The quality, utility and clarity of the information to be collected; and

4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Color-of-Title (43 CFR part 2540). OMB approval number: 1004–0029.

Abstract: The Bureau of Land Management is proposing to renew the approval of an information collection for an existing rule at 43 CFR part 2540. That rule provides guidelines and procedures for transferring legal title to public lands administered by the BLM from the United States to eligible individuals, groups, or corporations who have valid claims under the Color-of-Title Act of December 22, 1928 (45 Stat. 1069) as amended by the Act of July 28, 1953 Stat. 227), (U.S.C. 1068–1068b).

Bureau Form Number: 2540–1.

Frequency: Once.

Description of Respondents: Respondents are individuals, groups, or corporations.

Estimated Completion Time: 30 minutes.

Annual Responses: 20.

Filing Fee Per Response: $10.

Annual Burden Hours: 10 hours.

Bureau Clearance Officer: Shirlean Beshir (202) 452–5033.

Dated: June 23, 2000.

Shirlean Beshir,

Acting BLM Information Clearance Officer.

[FR Doc. 00–17090 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–620–1430–00–24 1A]

Notice of Policy on Mineral Commodity Pricing and Opportunity for Comment

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of policy and opportunity for comment.

SUMMARY: The Bureau of Land Management (BLM) is instituting a policy for calculating the mineral commodity price to use when determining whether a mining claim contains a ''discovery'' of a valuable mineral deposit. The policy is necessary to establish a consistent approach in determining claim validity.

DATES: The policy statement is effective July 6, 2000, but BLM will accept public comments for 60 days. BLM will consider the comments and decide whether or not to amend this policy statement. If you wish to comment on the policy, you should submit your comments by September 5, 2000.

ADDRESSES: Mail: Director (630), Bureau of Land Management, Administrative Record, Room 401 LS, 1849 C Street, NW, Washington, D.C. 20240.

Personal or messenger delivery: Room 501, 1620 L Street, NW, Washington, DC 20036.

Internet e-mail: WOComment@blm.gov. (Include ''Attn: MINERAL PRICING'')

FOR FURTHER INFORMATION CONTACT: Roger Haskins in the Solid Minerals Group at (202) 452–0355. For assistance in reaching Mr. Haskins, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–(800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures
II. Background
III. Statement of Policy

I. Public Comment Procedures

How Do I Comment on the Proposed Policy Statement?

Please submit your comments on issues related to the proposed policy statement, in writing, according to the **ADDRESSES** section above. Your comments should explain the need for any changes you recommend and, where possible, refer to specific paragraphs in the statement.

Will My Comments Be Available to Others?

BLM will make your comments, including your name and address, available for public review at the ''L Street'' address listed in **ADDRESSES** above during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays).

Can BLM Keep My Identity Confidential?

Under certain conditions, BLM can keep your personal information confidential. You must prominently state your request for confidentiality at the beginning of your comment. BLM will consider withholding your name, street address, and other identifying information on a case-by-case basis to the extent allowed by law. BLM will make available to the public all submissions from organizations and businesses and from individuals identifying themselves as representatives or officials of organizations or businesses.

II. Background

The General Mining Law of 1872 establishes the terms by which you may locate and patent mining claims—transfer them to private ownership—on public lands. In order to be valid, your mining claim must contain a ''discovery'' of a valuable mineral deposit. This means you must have found a mineral deposit and you must have enough evidence to show that the mineral deposit is of such a character that a person of ordinary prudence would be justified in expending additional labor and means, with a reasonable prospect of success, in developing a valuable mine. *Castle* v. *Womble*, 19 Pub. Lands Dec. 455, 457 (1894). You must show that the mineral can be extracted, removed and marketed at a profit. *United States* v. *Coleman,* 390 U.S. 599, 602–603 (1968). When determining the validity of mining claims, Federal land management agencies conduct examinations of your asserted discovery to evaluate whether the mineral deposit can be removed and marketed at a profit given the production costs and the prevailing market on a given date. The Bureau of Land Management, the National Park Service, and the U.S. Forest Service each employ certified mineral examiners who conduct these examinations on behalf of the Secretary of the Interior. Their conclusions may later be reviewed by administrative law judges (ALJ) in the Department of the Interior's Office of Hearings and Appeals, by the Interior Board of Land Appeals (IBLA), and ultimately by the federal courts.

The Secretary must determine the validity of a mining claim when you as the claimant seek to patent the claim, and may also determine the validity of the claim at any other time for any other reason. In any case, you must be able to show that you have discovered a valuable mineral deposit on a particular significant date. We refer to this date as the marketability date. ''Marketability date'' means the date on which we determine if the mineral deposit you discovered can be removed and marketed at a profit given the production costs and the prevailing market conditions on that date. When we determine the validity of your mining claim, we may determine whether you have discovered a valuable mineral deposit on one or more marketability dates depending, for example, on whether you have filed a patent application or your mining claim is in an area subsequently withdrawn from mining claim location.

An essential element in determining whether a mineral deposit is marketable is the market value of the mineral commodity. For the most part, the commodities subject to the Mining Law—gold, silver, copper, lead, zinc, etc.—have widely reported spot market prices and are traded on public exchanges. Many of these minerals, especially those with volatile prices, are also the subject of ''futures'' trading based on the projected future market price for the mineral. The major exchanges for mineral commodities are the London Metals Exchange, the New York Commodities Exchange (COMEX) and the Chicago Board of Trade. On these exchanges, the historical spot prices are charted on a monthly basis. Futures prices are often set on a quarterly basis, but monthly futures prices are posted some of the time.

With these published market prices, determining a market value for the mineral to be mined might seem straightforward, but it has not proved a simple matter. While the value must be tied to an appropriate time period, this does not necessarily mean that the market price of the mineral on a specific date must be used to set the mineral's value. The market price on one date may be anomalous, or may represent a rising or falling market that should be taken into account in determining whether a prudent miner may reasonably expect to develop a profitable mine. This problem is obviously more severe in the case of minerals such as gold or molybdenum that historically have markets that may fluctuate substantially, even over a short

period of time. The IBLA summarized these issues in holding that ''a mining claimant must show that, as a present fact, considering historic price and cost factors and assuming that they will continue, there is a reasonable likelihood of success that a paying mine can be developed.'' *In re Pacific Coast Molybdenum Co.,* 90 I.D. 352, 360, 75 IBLA 16 (1983).

Neither BLM nor the Department has ever addressed the mineral pricing issue in published regulations or established a formal policy in handbooks or manuals. Instead, over the years, mineral examiners, ALJs and the IBLA have followed an *ad hoc* approach. The IBLA case law has not established a firm pricing rule. Rather, the IBLA has reviewed the valuation method used by the mineral examiner or the ALJ to determine whether it is reasonably based on the facts of the case before it. The methods for establishing a market price that emerge from the Department's practice have ranged widely, but fall into two basic categories: using the market price on a given date, or averaging the market price over several years.

In several cases, the IBLA has approved using market prices on definite dates to set the value of the minerals. For example, in *U.S.* v. *Shining Rock Mining Corp.,* 112 IBLA 326 (1990), the IBLA affirmed a mineral examiner's decision to set the price of the mineral as the market price on the date of the hearing before the ALJ. In another case, *U.S.* v. *Garner,* 30 IBLA 42 (1977), the IBLA affirmed the ALJ's assessment of marketability based on the market price at the date of the hearing and the market price on the date of the withdrawal of the lands. In *Pacific Coast*, the IBLA concluded that the market price on the date of withdrawal could also be used to determine the profitability of the claim on the date the IBLA decided the appeal, despite a wide swing in molybdenum prices over the intervening four years. 90 I.D. at 360–361.

IBLA has also adopted or affirmed marketability determinations based on average price calculations. In *U.S.* v. *Crowley,* 124 IBLA 374 (1992), the IBLA used the average price for the five years preceding the pertinent date of withdrawal. A longer average period was selected in *U.S.* v. *Laczkowski,* 111 IBLA 165 (1989), where the IBLA adopted a seven-year average price, from the date that the Government first sampled the claim to the date of the hearing before the ALJ. Mineral examiners report using other averaging methods as well—up to ten-year historical averages, or weighted averages that give more weight to more recent prices.

In at least one case, the IBLA ignored both the exact date and the average price methods. In *U.S.* v. *Waters,* 146 IBLA 172 (1998), the IBLA rejected an ALJ's selection of a six-year average price. Instead, the IBLA adopted the mineral examiner's slightly higher price as a ''reasonably projected price,'' noting that the mining claimant had used that price as well. Raising even more questions, the IBLA never actually stated what price would be used in *U.S.* v. *Gold Placers, Inc.,* 25 IBLA 368 (1976). After rejecting the ALJ's decision to use the price of gold on a date after the hearing (the ALJ was attempting to reflect a surge in the market price following the hearing), the IBLA concluded that rising costs for mining had outpaced the increase in the value of gold, so the mine would be uneconomic.

This diversity of approaches to mineral pricing is not good policy. It creates uncertainty in the process—for mineral examiners, for claimants, and for others. It can give rise to distortions and accusations of bias, as a sympathetic or unsympathetic mineral examiner may select the method that yields the highest or lowest value for the mineral. The range of pricing approaches used also encourages speculation before the Office of Hearings and Appeals regarding future market prices; the reported cases commonly describe speculative and contradictory evidence on the future of minerals markets.

In order to reduce uncertainty and establish a consistent and reasonable basis for analyzing the economic marketability of a mineral deposit during a mining claim validity determination, the BLM is adopting the following Statement of Policy on the proper method to determine the market price of the mineral at issue. This policy relies on the prices for minerals set in the free market and avoids the speculative approaches that have reduced the reliability and authority of claim validity determinations in the past.

III. Statement of Policy

The BLM will use the following steps to determine the price of mineral commodities when analyzing the economic marketability of a mineral deposit in determining the validity of a mining claim. This policy will apply to validity determinations for all unpatented mining claims, including those located on lands administered by the BLM, the National Park Service and the U.S. Forest Service. We will use this methodology only for minerals that have a commodity market price established through trading on a public exchange.

1. *Marketability Dates.* The dates described below are the significant dates on which we will determine if the mineral deposit the claimant discovered can be removed and marketed at a profit given the production costs and the prevailing market conditions on that date.

A. *Mining claims on withdrawn lands.* For any claim located before the withdrawal of the affected lands from mineral entry, BLM will determine if it is valid both as of the date of the withdrawal and the date of the mineral examination.

B. *Mining claims in patent applications.* For any claim included in a patent application, BLM will determine the validity of the claim as of the date it determines the claimant met all the requirements for patenting.

C. *All others.* For any mining claim validity determination where there is no patent application and no withdrawal, BLM will determine the validity of the claim as of the date of the mineral examination.

Except for claims subject to paragraph B above, if a mineral examiner concludes that the claim is invalid as of the date of the mineral examination, the examiner must be prepared to address any evidence the claimant might present at the contest hearing regarding validity of the claim on the date of the hearing.

2. *General Policy.* BLM will use a six-year average pricing method. To determine the mineral commodity price to use on any specific marketability date, the mineral examiner will begin with an average of the commodity price of the mineral for the month in which the marketability date occurred. The examiner will then average that price together with: (a) the monthly average commodity prices for each of the 36 months before the marketability date; and (b) the monthly average commodity futures prices for each of the 36 months after the marketability date. To obtain monthly figures for futures prices, the mineral examiner will use the highest volume quarterly futures prices for each of the three months covered by that quarter. For example, if a quarterly price is posted as a first-quarter futures price, that price would establish monthly prices for January, February, and March. The examiner will average a total of 73 monthly averages to arrive at the 6-year average commodity price to use for the marketability date. See paragraphs 3 and 4 for exceptions to the general policy.

The examiner should never use actual commodity prices when determining

the futures prices for each of the 36 months after the marketability date. For example, if the marketability date is February 2, 1996 , the mineral examiner will not use prices at which the mineral commodity actually sold on the market for the 36 months after the marketability date. Instead, the examiner will use the futures data that were reported on February 2, 1996 . This policy is designed to reflect the futures market that the claimant faced on the marketability date. We are using 36 months, or three years, of futures price data because that is all that is usually available.

The monthly average commodity prices can be obtained from the London Metals Exchange (LME) at <www.lme.co.uk>, the New York Commodities Exchange (COMEX) at <www.nymex.com> or the Chicago Board of Trade at <www.cbot.com>. Quarterly futures prices can be obtained at <goldsheet.simplenet.com>, <www.futuresweb.com>, and <www.futuresguide.com>. Other sources of archival data are the LME and <www.kitco.com>. The Uniform Resource Locators for these sites may change frequently. There are many other sites available which post commodity pricing data.

3. *Limited Futures Markets.* In instances where a publicly-traded mineral has no futures prices available on the market, the mineral examiner will average the monthly average commodity price for the month in which the significant marketability date occurred with the monthly average commodity prices for each of the 36 months before the marketability date. The mineral examiner will average a total of 37 numbers in this instance. If quarterly futures prices are available for any of the 36 months following the marketability date, the mineral examiner will average the available futures prices on a monthly basis with the monthly average commodity price for the month in which the significant marketability date occurred and the monthly commodity prices for each of the 36 months before the marketability date.

4. *Operating Mines.* When determining the validity of mining claims that are being developed by an operating mine, the mineral examiner will substitute the prices at which the claimant actually sold the commodity during any of the 36 months preceding the marketability date, and during the month in which the marketability date occurs, for the monthly average commodity price that otherwise would be used under paragraph 2. Also, the mineral examiner will substitute any of the claimant's actual futures sales contract prices for production from the mine for any of the 36 months following the marketability date.

Sylvia V. Baca,

Assistant Secretary of the Interior.

[FR Doc. 00–17016 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–084–1150–EU)

Notice of Realty Action, Sale of Public Land in Custer County, Idaho (IDI–32472)

AGENCY: Bureau of Land Management, Interior.

ACTION: Sale of public land in Custer County.

SUMMARY: The following-described public land has been examined and through the public-supported land use planning process has been determined to be suitable for disposal by direct sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976 at no less than the appraised fair market value of $24,600. The land will not be offered for sale until at least 60 days after the date of publication of this notice in the **Federal Register**.

Boise Meridian

T. 7 N., R. 24 E., sec. 25, Lots 7 and 10.
T. 7 N., R. 24 E., sec. 30, Lot 8.

The area described contains 49.2 acres in Custer County.

The patent, when issued, will contain a reservation to the United States for ditches and canals under the Act of March 30, 1890.

The patent, when issued, will be made subject to the following existing rights of record:

1. IDI–21021—A telephone line right-of-way authorized to ATC Communications.
2. IDI–23188—A road right-of-way authorized to Lost River Highway District.
3. IDI–22582—A power line right-of-way authorized to Bonneville Power Administration.

Continued use of the land by valid right-of-way holders is proper subject to the terms and conditions of the grant. Administrative responsibility previously held by the United States will be assumed by the patentee.

DATES: Upon publication of this notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the Federal Land Policy and Management Act. The segregative effect will end upon issuance of patent or 270 days from the date of publication, whichever occurs first.

ADDRESSES: Upper Columbia—Salmon Clearwater District, Challis Field Office, Rt. 2, Box 610, Salmon, Idaho 83467.

FOR FURTHER INFORMATION CONTACT: For additional detailed information, contact Gloria Romero, Realty Specialist, at the address shown above or (208) 756–5421.

SUPPLEMENTARY INFORMATION: This land is being offered by direct sale to Dave Nelson of Mackay, Idaho, based on historic use and value of added improvements. Failure or refusal by Dave Nelson to submit the required fair market appraisal amount by September 29, 2000, will constitute a waiver of this preference consideration and this land may be offered for sale on a competitive or modified competitive basis. It has been determined that the subject parcel contains no known mineral values; therefore, mineral interests will be conveyed simultaneously.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Challis Field Office Manager, Upper Columbia-Salmon Clearwater District, Challis Field Office, at the above address. Any adverse comments will be reviewed by the Field Office Manager, who may vacate or modify this realty action to accommodate the protests. If the protest is not accommodated, the comments are subject to review of the State Director who may sustain, vacate, or modify this realty action. This realty action will become the final determination of the Department of the Interior.

Dated: June 29, 2000.

Fritz Rennebaum,

District Manager.

[FR Doc. 00–17093 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–66–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council's Ecosystem Roundtable Meeting and Ecosystem Roundtable Amendments Subcommittee Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of meetings.

SUMMARY: The Bay-Delta Advisory Council's (BDAC) Ecosystem

Roundtable will meet on July 19, 2000 to discuss the Restoration Reserve policy, 2001 project selection process, environmental water program, and other topics. The Amendments Subcommittee will also meet on July 19, 2000 to discuss proposed contract modifications for several ongoing ecosystem restoration projects. These meetings are open to the public. Interested persons may make oral statements to the Ecosystem Roundtable and Amendments Subcommittee or may file written statements for consideration.

DATES: The BDAC's Ecosystem Roundtable meeting will be held from 9:30 a.m. to 12 p.m. on Wednesday, July 19, 2000. The Ecosystem Roundtable Amendments Subcommittee meeting will be held from 1 p.m. to 3 p.m. on Wednesday, July 19, 2000.

ADDRESSES: The Ecosystem Roundtable and Amendments Subcommittee will meet at the Resources Building, Room 1404–17, 1416 Ninth Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Wendy Halverson Martin, CALFED Bay-Delta Program, at (916) 657–2666. If reasonable accommodation is needed due to a disability, please contact the Equal Employment Opportunity Office at (916) 653–6952 or TDD (916) 653–6934 at least one week prior to the meeting.

SUPPLEMENTARY INFORMATION: The San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta system) is a critically important part of California's natural environment and economy. In recognition of the serious problems facing the region and the complex resource management decisions that must be made, the State of California and the Federal government are working together to stabilize, protect, restore, and enhance the Bay-Delta system. The State and Federal agencies with management and regulatory responsibilities in the Bay-Delta system are working together as CALFED to provide direction and oversight for the process.

One area of Bay-Delta management includes the establishment of a joint State-Federal process to develop long-term solutions to problems in the Bay-Delta system related to fish and wildlife, water supply reliability, natural disasters, and water quality. The intent is to develop a comprehensive and balanced plan that addresses all of the resource problems. This effort, the CALFED Bay-Delta Program (Program), is being carried out under the policy direction of CALFED. The Program is exploring and developing a long-term solution for a cooperative planning process that will determine the most appropriate strategy and actions necessary to improve water quality, restore health to the Bay-Delta ecosystem, provide for a variety of beneficial uses, and minimize Bay-Delta system vulnerability. A group of citizen advisors representing California's agricultural, environmental, urban, business, fishing, and other interests who have a stake in finding long-term solutions for the problems affecting the Bay-Delta system has been chartered under the Federal Advisory Committee Act (FACA). The BDAC provides advice CALFED on the program mission, problems to be addressed, and objectives for the Program. BDAC provides a forum to help ensure public participation, and will review reports and other materials prepared by CALFED staff. BDAC has established a subcommittee called the Ecosystem Roundtable to provide input on annual workplans to implement ecosystem restoration projects and programs.

Minutes of the meeting will be maintained by the Program, Suite 1155, 1416 Ninth Street, Sacramento, CA 95814, and will be available for public inspection during regular business hours, Monday through Friday within 30 days following the meeting.

Dated: June 29, 2000.

Kirk C. Rodgers,

Deputy Regional Director, Mid-Pacific Region, Bureau of Reclamation, Department of the Interior.

[FR Doc. 00–17015 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–MN–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–828 (Final)]

Bulk Acetylsalicylic Acid (Aspirin) From China

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from China of bulk acetylsalicylic acid (aspirin), provided for in subheadings 2918.22.10 and 3003.90.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). The Commission further determines that it would not have found material injury but for the suspension of liquidation.

Background

The Commission instituted this investigation effective May 28, 1999, following receipt of a petition filed with the Commission and the Department of Commerce by Rhodia, Inc., Cranbury, NJ. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of bulk aspirin from China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 4, 2000 (65 FR 5659). The hearing was held in Washington, DC, on May 18, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 30, 2000. The views of the Commission are contained in USITC Publication 3314 (June 2000), entitled Bulk Acetylsalicylic Acid (Aspirin) from China: Investigation No. 731–TA–828 (Final).

By order of the Commission.

Issued: June 29, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–17080 Filed 7–5–00; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Inv. No 337–TA–424]

Certain Cigarettes and Packaging Thereof; Notice of Commission Determinations To Extend the Deadline for Determining Whether To Review an Initial Determination Finding a Violation of Section 337 and To Extend the Target Date for Completing the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined: (1) To extend the deadline for determining whether to review the final initial determination (ID) on violation by three weeks, or until August 28, 2000, and (2) to extend the target date for completing the investigation by three weeks, or until October 16, 2000.

FOR FURTHER INFORMATION CONTACT: Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3090, e-mail *saranoff@usitc.gov.* Hearing-impaired persons are advised that information 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: The Commission instituted this trademark-based investigation on September 16, 1999, based on a complaint filed by Brown & Williamson Tobacco Corp. alleging violations of section 337 by reason of (a) infringement of 11 federally registered U.S. trademarks; (b) unfair competition under the Lanham Act; (c) improper importation of products under the Lanham Act; and (d) dilution of the registered trademarks.

On June 22, 2000, the presiding administrative law judge (''ALJ'') issued her final ID on the merits in this investigation, finding a violation of section 337. The ALJ also issued her recommended determination on remedy and bonding. The Commission has determined to extend its deadline for determining whether to review the final ID from August 7, 2000, to August 28, 2000, and to extend the target date for completion of the investigation from September 25, 2000, to October 16, 2000.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and rules 210.42(h)(2) and 210.51(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.42(h)(2) and 210.51(a)).

Copies of the nonconfidential version of the 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.

By order of the Commission.

Issued: June 29, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–17079 Filed 7–5–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–464 (Review)]

Sparklers From China

Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that revocation of the antidumping duty order on sparklers from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 1, 1999 (64 FR 35689) and determined on October 1, 1999 that it would conduct a full review (64 FR 55960, October 15, 1999). Notice of the scheduling of the Commission's review and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on February 16, 2000 (65 FR 7892). The hearing was held in Washington, DC, on May 11, 2000, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this review to the Secretary of Commerce on July 10, 2000. The views of the Commission are contained in USITC Publication 3317 (July 2000), entitled Sparklers from China: Investigation No. 731–TA–464 (Review).

By order of the Commission.

Issued: June 28, 2000.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–17077 Filed 7–5–00; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–678–679 and 681–682 (Review)]

Stainless Steel Bar From Brazil, India, Japan, and Spain

AGENCY: United States International Trade Commission.

ACTION: Scheduling of full five-year reviews concerning the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) (the Act) to determine whether revocation of the antidumping duty orders on stainless steel bar from Brazil, India, Japan, and Spain would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined that these grouped reviews are extraordinarily complicated and has decided to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B), (C)(iv). For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

EFFECTIVE DATE: June 28, 2000.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On April 6, 2000, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews pursuant to section 751(c)(5) of the Act should proceed (65 FR 20834, April 18, 2000). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's

statements are available from the Office of the Secretary and at the Commission's web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on January 9, 2001, and a public version will be issued thereafter, pursuant to § 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on January 30, 2001, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 23, 2001. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 26, 2001, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.65 of the Commission's rules; the deadline for filing is January 19, 2001. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.67 of the Commission's rules. The deadline for filing posthearing briefs is February 8, 2001; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before February 8, 2001. On March 2, 2001, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 6, 2001, but such final comments must not contain new factual information and must otherwise comply with § 207.68 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.By order of the Commission.

Issued: June 29, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–17078 Filed 7–5–00; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Unemployment Insurance Program Letter Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law requirements pertaining to unemployment compensation (UC) as part of its role in the administration of the Federal-State UC program. These interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to the State Employment Security Agencies. The UIPL described below is published in the **Federal Register** in order to inform the public.

UIPL 25–00

UIPL 25–00 advises State agencies of two provisions of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106–170, which affect the Federal-State Unemployment Compensation program.

Section 405 of Public Law 106–170 permits, but does not require, States to allow employers to submit annual wage reports—as opposed to quarterly reports, as required prior to enactment of Public Law 106–170—with respect to certain domestic service employment. This directive informs States that they may, at their option, permit the annual reporting of wages from domestic service employers. The directive informs States of the definition of domestic service employers used by the Internal Revenue Service as it applies to reporting of wages. It also discusses the implications for experience rating if States decide to permit annual reporting.

Section 506 of Public Law 106–170 extended the exclusion from the FUTA definition of wages for employer-provided educational assistance under Section 127 of the Internal Revenue Code for undergraduate courses from May 31, 2000 to December 31, 2001. This directive informs States of this change in the expiration date.

Dated: June 29, 2000.

Raymond Bramucci,

Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration Washington, D.C. 20210

CLASSIFICATION: UI
CORRESPONDENCE SYMBOL: TEUL
DATE: May 19, 2000.

DIRECTIVE: UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 25–00
TO: ALL STATE EMPLOYMENT SECURITY AGENCIES
FROM: GRACE KILBANE, Administrator, Office of Workforce Security
SUBJECT: The Ticket to Work and Work Incentives Improvement Act of 1999—Provisions Affecting the Federal-State UC Program
RESCISSIONS: None
EXPIRATION DATE: Continuing

1. *Purpose.* To advise State agencies of the provisions of the Ticket to Work and Work Incentives Improvement Act of 1999, P.L. 106–170, which affect the Federal-State Unemployment Compensation (UC) program.

2. *References.* Sections 405 and 506 of P.L. 106–170; Sections 303(f) and 1137 of the Social Security Act (SSA); Sections 3303(a)(1) and 3306(b)(13) of the Federal Unemployment Tax Act (FUTA); Section 127 of the Internal Revenue Code (IRC); Section 3510, IRC; The Social Security Domestic Employment Reform Act of 1994 (P.L. 103–387); Unemployment Insurance Program Letter (UIPL) 29–83; UIPL 29–83, Change 1.

3. *Background.* On December 17, 1999, the President signed into law the Ticket to Work and Work Incentives Improvement Act of 1999 (the Ticket to Work Act), P.L. 106–170, which contains two provisions affecting the UC program:

- States may now permit employers to submit *annual* wage reports with respect to certain domestic service employment. Prior to the enactment of the Act, Federal law required wage data for such employment to be reported on a *quarterly* basis.
- The exclusion from the FUTA definition of wages for employer-provided educational assistance under Section 127, IRC, was extended for undergraduate courses from May 31, 2000 to December 31, 2001.

These amendments are discussed in detail below.

4. *Section 405, Annual Filing of Wage Reports by Domestic Employers.*

a. *In general.* The Social Security Domestic Employment Reform Act of 1994, Pub. L. 103–387, amended Section 3510, IRC, so that domestic service employers were no longer required to file the annual FUTA return or quarterly returns regarding Social Security and Medicare taxes. Instead, domestic service employers could file such returns for Federal tax purposes at the same time as the filing of their personal income tax returns.

This change to annual reporting for Federal purposes did not change the requirement that wage reports be submitted quarterly to States. This quarterly wage report requirement is found in Section 303(f), SSA, which makes operation of an income and eligibility verification system in accordance with Section 1137, SSA, a condition for the receipt of UC administrative grants. Specifically, Section 1137(a)(3), SSA, requires that a State must have in effect an income and eligibility verification system under which—

employers * * * in such State are required, effective September 30, 1988, to make quarterly wage reports to a State agency (which may be the agency administering the State's unemployment compensation law) * * *.

Section 405 of the Ticket to Work Act amended Section 1137(a)(3), SSA, by adding the following new exception to the quarterly reporting requirement—

in the case of wage reports with respect to domestic service employment, a State may permit employers (as so defined) that make returns with respect to such employment on a calendar year basis pursuant to section 3510 of the Internal Revenue Code of 1986 to make such reports on an annual basis.

As a result of this change, States may, at their option, permit annual wage reporting of domestic service employment by employers making returns under Section 3510, IRC. (Section 3510, IRC, permits returns with respect to domestic service employment taxes to be made on a calendar year rather than a quarterly basis.) This amendment applies only to domestic service employers.

Because the amendments to the SSA refer to Section 3510, IRC, the Internal Revenue Service (IRS) has authority for determining what constitutes domestic service. IRS guidance is found in the instructions for Schedule H, which refers to individuals performing domestic service as ''household employees.'' The Schedule H for tax year 1999 gives the following examples of household employees: Babysitters, caretakers, cleaning people, drivers, health aides, housekeepers, nannies, private nurses, and yard workers.

States electing to use annual wage reporting are not required to grant annual reporting status to all domestic service employers. States may be more restrictive and offer the annual reporting option only to certain domestic service employers. For example, a State could permit annual reporting only for services by nannies while making all other domestic services subject to a quarterly reporting basis.

States also may condition approval of annual filing status on a domestic service employer's compliance with safeguards or other conditions required by State law. For example, a State may require domestic service employers to file ''change reports'' indicating when wages are increased or decreased, or when a domestic employee is hired or separated. States may also limit annual reporting to domestic service employers who timely pay contributions or make reports.

b. *Experience Rating.* States that choose to permit annual reporting must ensure that domestic service employers are not treated differently from other employers for experience rating purposes. A domestic service employer may not report wage information or pay contributions with respect to the calendar year until April 15 of the following year. However, all other employers would report wage information and make payments throughout the calendar year. As a result, if a State's computation date for a tax year is July 1, information would be available up to the computation date with respect to non-domestic service employers, but it would not be available up to the computation date for domestic service employers, simply because it had not yet been reported or because contributions had not yet been paid. As a result, the non-domestic service employer might have its rate based on current information, while the domestic service employer would have its rate based on older information, simply because State law provides for two different sets of dates for submitting wage data or paying contributions.

Section 3303(a)(1), FUTA, provides, as a condition of receipt of the additional credit by employers in a State, that ''no reduced rate of contributions * * * is permitted to a person (or group of persons) * * * except on the basis of his (or their) experience with respect to unemployment or other factors bearing a direct relation to unemployment risk during not less than the three consecutive years immediately preceding the computation date.'' The Department of Labor interprets this section to require that the ''experience

of all employers subject to contributions under a State law must be measured by the same factor throughout the same period of time.'' This interpretation is referred to as the ''uniform method'' requirement. See UIPLs 29–83 (56 FR 54891 (1991)) and 29–83, Change 1 (56 FR 54896 (1991)).

A ''uniform method'' issue is raised if a State has different criteria for including wage and payment data for one group of employers than another group. This will occur if a State grants one group of employers a different filing and payment status than others. States may avoid ''uniform method'' issues through a variety of means. As they do with other employers where current information is missing, States may provide estimated tax rates which are subject to recomputation once the necessary data has been received. Alternatively, States may delay mailing tax rate notices to domestic service employers filing annually until the necessary information has been obtained.

c. *Effective date.* Under Section 405 of the Ticket to Work Act, this amendment applies to wage reports required to be submitted on and after the date of enactment. The Ticket to Work Act was effective on the signing date, December 17, 1999.

5. *Section 506, Employer-Provided Educational Assistance.* Section 3306(b)(13), FUTA, excludes from the definition of wages ''any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127 or 129.'' Under Section 127, IRC, employer-paid educational expenses are excludable from the gross income and wages of an employee if provided under an educational assistance plan. The exclusion for such employer-provided educational assistance expired with respect to graduate courses beginning after June 30, 1996. For undergraduate courses, the exclusion from gross income for employer-provided educational assistance previously had been scheduled to expire with respect to courses beginning after May 31, 2000. Section 506 of the Ticket to Work Act, entitled Employer-Provided Educational Assistance, amended the IRC, to extend the expiration date for employer-provided educational assistance for undergraduate courses. Due to the extension, the expiration of the exclusion is now with respect to courses beginning after December 31, 2001. Thus, the FUTA definition of wages does not exclude employer-provided educational assistance for undergraduate courses beginning after December 31, 2001.

6. *Action Required.* State Administrators should provide this information to the appropriate staff.

7. *Inquiries.* Inquiries should be directed to the appropriate Regional Office.

[FR Doc. 00–17036 Filed 7–5–00; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed extension collection of the following information collection: Uniform Health Insurance Claim Form (UB–92). Copies of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this Notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 5, 2000.

ADDRESSES: Ms. Patricia A. Forkel, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0339 (this is not a toll-free number), fax (202) 693–1451.

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs (OWCP) administers the Federal Employees' Compensation Act (FECA) (5 U.S.C. 8101, *et seq.*) and the Federal Black Lung Benefits Act (FBLBA) (30 U.S.C. 901 *et seq*). These statutes provide, in addition to compensation for employment-related injury and/or disability, payment to provider institutions for certain medical treatment and diagnostic services related to the injury or disability. The Uniform Health Insurance Claim Form (UB–92), has been approved by the American Hospital Association, the Health Care Financing Administration, and the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), by various other government health care programs, and the private sector, for the purpose of payment to institutional providers of medical services. The UB–92 has detailed instructions developed by OWCP that provide the information necessary to providers who file claims for services that may be payable under FECA or FBLA.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Action

The Department of Labor seeks the extension of approval to collect this information in order to carry out its rersponsibility to provide payment for certain covered medical services to injured employees who are covered under the FECA and the FBLBA.

Type of Review: Extension.

Agency: Employment Standards Administration.

Title: Uniform Health Insurance Claim Form.

OMB Number: 1215–0176.

Agency Number: UB–92.

Affected Public: Individuals or households, Businesses or other for-

progit; Not-for-profit institutions; Federal Government.

Total Respondents: 185,550.

Frequency: On occasion.

Total Responses: 185,550.

Time per Response: 6–10.5 minutes.

Estimated Total Burden Hours: 30,430.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $6,665.

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: June 29, 2000.

Margaret J. Sherrill,

Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.

[FR Doc. 00–17035 Filed 7–5–00; 8:45 am]

BILLING CODE 4510–47–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 2000–34; Exemption Application No. D–10712, et al.]

Grant of Individual Exemptions; The Fidelity Mutual Life Insurance Company (In Rehabilitation) (FML)

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Fidelity Mutual Life Insurance Company (In Rehabilitation) (FML) Located in Radnor, PA

[Prohibited Transaction Exemption 2000–34; Exemption Application No. D–10712]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to (1) The receipt of certain stock (the Plan Stock) issued by Fidelity Insurance Group. Inc. (Group), a wholly owned subsidiary of FML, or (2) the receipt of plan credits (the Plan Credits), by or on behalf of a mutual member (the Mutual Member) of FML, which is an employee benefit plan (the Plan), other than the Employee Pension Plan of Fidelity Mutual Lift Insurance Company, in exchange for such Mutual Member's membership interest (the Membership Interest) in FML, in accordance with the terms of a plan of rehabilitation (the Third Amended Plan of Rehabilitation), approved by the Pennsylvania Commonwealth Court (the Court) and supervised by both the Court and a rehabilitator (the Rehabilitator) appointed by the Pennsylvania Insurance Commissioner (the Commissioner).

This exemption is subject to the following conditions set forth below in Section II.

Section II. General Conditions

(a) The Third Amended Plan of Rehabilitation is approved by the Court, implemented in accordance with procedural and substantive safeguards that are imposed under Pennsylvania law and is subject to review and/or supervision by the Commissioner and the Rehabilitator. The Court determines whether the Third Amended Plan of Rehabilitation—

(1) Properly conserves and equitably administers the assets of FML in the interests of investors, the public and others in accordance with the legislatively-stated purpose of protecting the interests of the insureds. creditors and the public; and

(2) Equitably apportions any unavoidable loss through improved methods for rehabilitating FML.

(b) Each Mutual Member has an opportunity to comment on the Third Amended Plan of Rehabilitation at hearings held by the Court after full written disclosure of the terms of the Plan is given to such Mutual Member by FML.

(c) Participation by all Mutual Members in the Third Amended Plan of Rehabilitation, if approved by the Court, is mandatory, although Mutual Members may disclaim Plan Stock.

(d) The decision by a Mutual Member which is a Plan to receive or disclaim Plan Stock or Plan Credits allocated to such Mutual Member is made by one or more independent fiduciaries of such plan and not by FML, Group or Fidelity Life Insurance Company (FLIC). Consequently, neither FML nor any of its affiliates will exercise investment discretion nor render ''investment advice'' within the meaning of 29 CFR 2510.3–21(c) with respect to an independent Plan fiduciary's decision to receive or disclaim Plan Stock or Plan Credits.

(e) Twenty percent of the Plan Stock is allocated to a Mutual Member based upon voting rights and eighty percent is allocated to a Mutual Member on the basis of the contribution of the Mutual Member's insurance or annuity contract (the Contract) to the surplus of FML. The contribution to FML's surplus is the actuarial calculation of both the historical and expected future profit contribution of the Contracts that have contributed to the surplus (*i.e.,* the net earnings) of FML. The actuarial

formulas are approved by the Court and the Commissioner.

(f) The value of Plan Stock or Plan Credits that will be received by a Mutual Member will reflect the aggregate price paid by an independent investor (the Investor) to Group for common Stock (the Common Stock) and for plan credit shares (the Plan Credit Shares) in convertible preferred stock (the Preferred Stock) issued by Group.

(g) All Mutual Members that are Plans participate in the transactions on the same basis as all other Mutual Members that are not Plans.

(h) No Mutual Member pays any brokerage commissions or fees in connection with the receipt of Plan Stock or Plan Credits.

(i) The Third Amended Plan of Rehabilitation does not affect the rights of a contractholder of the company (the Contractholder), which is a Mutual Member. In this regard, FML's obligations to a Contractholder are discharged and terminated upon their endorsement and assumption by FLIC, thereby making FLIC liable for the obligations under such Contract.

Section III. Definitions

For purposes of this exemption:

(a) The term ''FML'' means the Fidelity Mutual Life Insurance Company (In Rehabilitation) and any affiliate of FML as defined in paragraph (c) of this Section III.

(b) The term ''FLIC'' means Fidelity Life Insurance Company and any affiliate of FLIC as defined in paragraph (c) of this Section III.

(c) An ''affiliate'' of FML or FLIC includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with FML or FLIC; (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.) or

(2) Any officer, director or partner in such person.

(c) The term ''Mutual Member'' means a Contractholder whose name appears on FML's records as an owner of an FML Contract on the Record Date of the Third Amended Plan of Rehabilitation.

(d) The term ''Investor'' means the person (*e.g.,* individual, corporation, partnership, joint venture, etc.) selected by the Rehabilitator and approved by the Court to be the purchaser under the Investment Agreement.

(e) The term ''Group Stock'' refers to shares of Group Common Stock and to Group Preferred Stock, which will have a cumulative, annual dividend equal to 7 percent of its liquidation value. The Preferred Stock will be Series A stock having a par value of $0.01 per share and a liquidation preference and a redemption value of $25 per share.

(f) The term ''Plan Stock'' means the 3 million shares of Group Common Stock and the 2.8 million of Group Preferred Stock that will be allocated to Mutual Members.

(g) The term ''Plan Credit'' means either (1) additional paid up insurance for a traditional life policy or (2) credits to the account values for Contracts that are not traditional (such as a flexible premium policy). Under FML's Third Amended Plan of Plan of Rehabilitation, Plan Credits are to be allocated to certain Mutual Members in lieu of Plan Stock.

(h) The term ''Plan Credit Shares'' includes those shares of Plan Stock (*i.e.,* the 15,000 to 180,000 shares of Group Common Stock) and any shares of Group Preferred Stock to be issued and sold by Group to the Investor to fund Plan Credits.

(i) The term ''Policyholder Stock means those shares of Group Common or Group Preferred Stock that will be issued and distributed to Mutual Members, consisting of Plan Stock plus any shares of Group Stock (in excess of Plan Stock) issued for purposes of correcting errors in the allocation of Plan Stock, less Plan Credit Shares and any disclaimed shares.

(j) The term ''Investor Stock'' means the 3.1 million shares of Group Common Stock (other than Plan Stock) and the Plan Credit Shares which, under the Third Amended Plan of Rehabilitation, are sold to the Investor pursuant to bid procedures and the Investment Agreement.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) that was published on April 7, 2000 at 65 FR 18359.

Written Comments

The department received two written comments with respect to the Notice. The comments were submitted by FML for the purpose of clarifying certain statements made in the Notice and to provide additional information regarding specific issues raised therein. As discussed below, a majority of FML's concerns relate to the general conditions (the General Conditions) set forth in Section II of the Notice while other areas of concern relate to the Summary of Facts and Representations (the summary) of the Notice.

Concerns About the General Conditions

1. *Standard of Review by the Court.* Paragraph (a) of Section II of the Notice states that the Court will determine ''* * * whether the Third Amended Plan of Rehabilitation is fair and equitable to Mutual Members.'' FML states that although this General Condition may convey a broad description of the court's review, ''fair and equitable'' is a technical standard of review in some states but it is not a statutory requirement under Pennsylvania law. According to FML, the Pennsylvania Supreme court has stated in *Foster* v. *Mutual Fire, Marine & Inland Insurance Co.,* 614 A2d 1086, 1094 (PA 1992) that a rehabilitation plan must ''properly conserve and equitably administer the assets of the involved corporation in the interests of investors, the public and others'' in accordance with the ''legislatively stated purpose [of] 'the protection of the interests of the insureds, creditors and the public generally * * *' and the 'equitable apportionment of any unavoidable loss' through * * * 'improved methods for rehabilitating insurers * * *' ''

In response to this comment, the Department has revised Section II(a) of the exemption, as follows, to reflect the decision of the Pennsylvania Supreme Court:

> The Third Amended Plan of Rehabilitation is approved by the Court, implemented in accordance with procedural and substantive safeguards that are imposed under Pennsylvania law and is subject to review and/or supervision by the Commissioner and the Rehabilitator. The Court determines whether the Third Amended Plan of Rehabilitation—
>
> (1) Properly conserves and equitably administers the assets of FML in the interests of investors, the public and others in accordance with the legislatively-stated purpose of protecting the interests of the insureds, creditors and the public; and
>
> (2) Equitably apportions any unavoidable loss through improved methods for rehabilitating FML.

2. *Non-Voting by Mutual Members.* Paragraph (b) of Section II of the Notice states, in part, that ''[e]ach Mutual Member has an opportunity to vote and comment on the Third Amended Plan of Rehabilitation.'' FML points out that each Mutual member has received, and will continue to receive, full written disclosure of the terms of such Plan and each Mutual Member also has the opportunity to comment on the Plan by filing written objections to the Court or providing testimony at the hearings for such Plan.

However, FML notes that Mutual Members do not have an opportunity to

vote, as such, on the Third Amended Plan of Rehabilitation because there is no provision in the Pennsylvania rehabilitation statute requiring or allowing for a vote by such Mutual Members on the Third Amended Plan of Rehabilitation. Additionally, FML explains that Footnote 20 of the Summary states that the Rehabilitator has been advised that the Pennsylvania rehabilitation statute, which does require a vote in certain circumstances, is not applicable to this situation.

Moreover, in Representation 20(b) of the Summary, FML notes that the ''Court will review the terms of the Third Amended Plan of Rehabilitation and will approve such Plan following * * * a public hearing * * *'' Finally, FML notes that in Representation 20(c) of the Summary ''[e]ach Mutual Member will have an opportunity to participate in any hearing or hearings before the Court regarding the approval of the Third Amended Plan of Rehabilitation.''

On the basis of the foregoing clarifications, the Department has decided to revise Section II(b) of the exemption to read as follows:

Each Mutual Member has an opportunity to comment on the Third Amended Plan of Rehabilitation at hearings held by the Court after full written disclosure of the terms of the Plan is given to such Mutual Member by FML.

3. *Receipt of Consideration by Plan Mutual Members.* Paragraph (d) of Section II of the Notice states that —

Any determination by a Mutual Member which is a Plan to receive Plan Stock or Plan Credits is made by one or more independent fiduciaries of such plan and not by FML, Group or Fidelity Life Insurance Company (FLIC). Consequently, neither FML nor any of its affiliates will exercise investment discretion nor render ''investment advice'' within the meaning of 29 CFR 2510.3–21 (c) with respect to an independent Plan fiduciary's decision to elect Plan Stock or Plan Credits.

FML represents that it is accurate to state that the determination to receive Plan Stock or Plan Credits is not made by FML, Group or FLIC. However, FML points out that there is no ''determination or decision'' to be made by a Mutual Member because the Third Amended Plan of Rehabilitation provides for Plan Stock to go to all Mutual Members, except for Non-Trusteed Tax-Qualified Retirement Funding Contracts that are described in sections 401(a), 403(a) or (b) or 408 of the Code. FML represents that Non-Trusteed Tax-Qualified Retirement Funding Contracts will automatically receive Plan Credits.

In addition, FML explains that the Third Amended Plan of Rehabilitation sets forth exactly who will receive Plan Stock or Plan Credits, with no option for an election between the two. FML further states that the only election that can be made by a Mutual Member is the disclaimer to receive Plan Stock or Plan Credits, and that decision cannot be made by FML, Group or FLIC.

In consideration of this comment, the Department has decided to revise Section II(d) of the exemption to read as follows:

The decision by a Mutual Member which is a Plan to receive or disclaim Plan Stock or Plan Credits allocated to such Mutual Member is made by one or more independent fiduciaries of such plan and not by FML, Group or Fidelity Life Insurance Company (FLIC). Consequently, neither FML nor any of its affiliates will exercise investment discretion nor render ''investment advice'' within the meaning of 29 CFR 2510.3–21(c) with respect to an independent Plan fiduciary's decision to receive or disclaim Plan Stock or Plan Credits.

4. *FML's Obligations to Contractholders.* Paragraph (i) of Section II of the Notice states that ''[a]ll of FML's obligations to contractholders (the Contractholders) of the company which are Mutual Members remain in force upon endorsement and transfer to FLIC and are not affected by the Third Amended Plan of Rehabilitation.'' Nevertheless, FML notes that while this General Condition is technically correct, it is somewhat misleading. In this regard, FML indicates that Representation 11 of the Summary states that ''[e]ach Contractholder having a Contract in force on the Closing Date will have his or her Contract assumed and reinsured by FLIC as of the Closing Date.'' In addition, FML notes that Representation 19 of the Summary states that FML will discontinue its business operations after the Closing Date and will subsequently liquidate and dissolve. Consequently, FML represents that its obligations to the Contractholders will be discharged and terminated upon their assumption by FLIC rather that remaining in force. Under these circumstances, FML explains that FLIC will then be responsible for those contractual obligations under the endorsed or assumed contracts.

Thus, on the basis of this comment, the Department has decided to revise paragraph (i) of Section II of the exemption to read as follows:

The Third Amended Plan of Rehabilitation does not affect the rights of a contractholer of the company (the Contractholder), which is a Mutual Member. In this regard. FML's obligations to a Contractholer are discharged and terminated upon their endorsement and assumption by FLIC, thereby making FLIC liable for the obligations under such Contract.

Concerns About the Summary

1. *Possible Termination of the Moratorium.* Representation 3 of the Summary states, in pertinent part, that ''[u]nder the Order of Rehabilitation, a moratorium was imposed on cash distributions, Contract surrenders, withdrawals and policy loans, except in certain hardship situations.'' The moratorium, which was imposed by the Court and which placed FML into rehabilitation, was intended to stop the outflow of cash and to afford the Rehabilitator time to stabilize FML's assets.

FML represents that it is currently considering eliminating this moratorium but it has not made a final decision nor has it determined when the end of the moratorium will occur. FML asserts that the Rehabilitator has petitioned the Court for five separate revisions of the moratorium based on FML's improved financial condition. FML notes that these revisions have generally allowed access to a percentage of cash value, included additional hardship criteria and have restored the exercise of various contractual obligations. None of the five petitions has been opposed by the Court.

FML states that although the Rehabilitator is considering a termination of the moratorium, much analysis has to be conducted before a decision can be made. In this regard, FML explains that actuarial information must be presented to the Court to explain the financial and economic effect of ending the moratorium. In addition, notice, an objection period, and possibly a hearing will be required.[1]

As for the effect of the termination of the moratorium on the amount of Plan Stock or Plan Credits a Mutual Member will be entitled to receive, FML states if Contractholders are permitted to surrender their Contracts prior to the Record Date, as defined in the Third Amended Plan of Rehabilitation,[2] and

[1] Although the notice has generally been sent only to FML's creditors and to the ''Master Service List,'' FML states that it will most likely recommend the same scope of notice to the Court assuming the moratorium is to be terminated. However, once a revision of the moratorium is approved, FML explains that notice of the Court's order must also be sent to all Contractholders and this procedure will be followed in the event the moratorium is lifted. Because none of the previous petitions have been opposed, FML states that no hearing has been required. However, if objections are filed, the Court will decide whether to hold a hearing or make a decision based on the pleadings.

[2] According to the Third Amended Plan of Rehabilitation, the ''Record Date'' means the last day of the month immediately preceding the month

choose to do so, such Contractholders will be terminating their status as Mutual Members. If the Contracts of these Contractholders are not in force on the Record Date, FML explains that the Contractholders will not be entitled to receive Plan Stock or Plan Credits.

FML further represents that if the moratorium is terminated prior to the Record Date, the Contractholders will still have the option of voluntarily surrendering their Contracts. However, FML explains that it will be required to make significant disclosures to these Contractholders to inform them of the benefits they will be foregoing if they surrender their Contracts prematurely. Alternatively, FML states that the Contractholders may choose to hold onto their Contracts until after the Record Date. Under these circumstances, the Contractholders, who would then be considered Mutual Members of FML, would receive their allocable shares of Plan Stock or Plan Credits but without an increase in the amount of consideration.

In any event, FML states it will treat Plan Contractholders no differently from other Contractholders that are not Plans in regard to the decision to surrender a Contract or the effective date of terminating the moratorium, and requisite disclosures. In this regard, FML states that Plan Contractholders will be sent the same notice and disclosure information that is provided to all other Contractholders that are not Plans.

The Department has noted the foregoing clarifications to Representation 3 and the impact of the termination of the moratorium on a Mutual Member's receipt of Plan Stock or Plan Credits. In this regard, the Department notes that no relief is being provided by this exemption for the receipt of cash by a Mutual Member that is a Plan.

2. *Investor Qualifications.* Representation 9 of the Summary sets forth the minimum qualifications for the Investor. FML states that while the substance of Representation 9 is accurate, the qualifications are actually contained in the Bid Procedures filed under the Third Amended Plan of Rehabilitation rather than in the Plan itself.

The Department has noted this clarification to the information contained in Representation 9 of the Summary.

3. *Plans Covered by the Exemption Request.* Representation 12 of the Summary states, in part, that ''[u]nder Section 4.05 of the Third Amended Plan of Rehabilitation, any Contract held in connection with a qualified retirement plan or an arrangement described in section[s] 401(a), 403(a) or 408 of the Code. * * * will be allocated Plan Credits in lieu of Plan Stock, in exchange for the relinquishment of the Mutual Member's Membership Interest under such Contract.'' FML represents that although Section 4.05 of the Third Amended Plan of Rehabilitation references only sections 401, 403 and 408 of the Code, the exemption application specifies Contracts held in connection with a qualified retirement plan or an arrangement described in section 401(a), 403(a) or (b) or 408 of the Code.

The Department acknowledges this comment relating to the information contained in Representation 12 of the Summary.

For further information regarding FML's comment letters and other matters discussed herein, interested persons are encouraged to obtain copies of the exemption application file (Exemption Application No. D–10712) the Department is maintaining in this case. The complete application file, as well as all supplemental submissions received by the Department, are made available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, Room N–5638, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, after giving full consideration to the entire record, including FML's written comments, the Department has decided to grant the exemption subject to the modifications and clarifications described above.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

in which the Preliminary Approval Order, approving such Plan, is entered by the Court. According to FML's counsel, the Record Date is projected for November 30, 2000.

Fortis, Inc. Employees' Uniform Profit Sharing Plan (the Fortis Plan) Located in New York, New York

[Prohibited Transaction Exemption 2000–35; Exemption Application Number D–10789]

Exemption

The restrictions of sections 406(a), 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) The restoration payment (the Restoration Payment) by Fortis, Inc. (Fortis), a party in interest with respect to the Fortis Plan, to the Fortis Plan with respect to a certain counterfeit certificate of deposit (the Plan CD); and (2) the potential future payment to Fortis of recapture payments (the Recapture Payments) made to the Fortis Plan pursuant to proceedings involving the issuer of the counterfeit CD. This exemption is subject to the following conditions:

(A) The Restoration Payment consists of:

(i) $501,125, an amount equal to the Plan CD's full face value at the time of the Plan CD's maturity; and

(ii) An amount in cash which is equal to:

(a) a 5.5% annual rate of return on the Plan CD's maturity value of $501,125 for the period beginning October 30, 1997 and ending on December 31, 1998; and

(b) a rate of return on the amount described in (A)(ii)(a) above which is equal to the average annual rate of return of the Fortis Money Market Fund from January 1, 1999 until the date of the Restoration Payment (*i.e.,* the Interest Payment);

(B) The Restoration Payment is a one-time transaction for cash;

(C) The Fortis Plan pays no expenses with respect to the Restoration Payment;

(D) The Fortis Plan retains any amount in excess of the Restoration Payment that it collects in its attempts to recover monies due under the Plan CD; and

(E) Any Recapture Payments paid by the Fortis Plan to Fortis are limited to the amount of the Restoration Payment and are restricted solely to the amounts, if any recovered, by the Fortis Plan with respect to the counterfeit CD in litigation or otherwise.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on May 4, 2000 at 65 FR 25954.

Written Comments

The Department received two written comments, both of which were in favor of granting the proposed exemption. Accordingly, after giving full consideration to the entire record, the Department has determined to grant the exemption.

FOR FURTHER INFORMATION CONTACT: Mr. J. Martin Jara, telephone (202) 219–8881. (This is not a toll-free number).

Canada Life Assurance Company (Canada Life) Located in Toronto, Ontario, Canada

[Prohibited Transaction Exemption 2000–36; Exemption Application No. D–10790]

Exemption

Section I. Covered Transactions

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply, effective November 4, 1999, to the (1) receipt of common shares (Common Shares) of Canada Life Financial Corporation, the holding company for Canada Life, or (2) the receipt of cash (Cash) or policy credits (Policy Credits), by or on behalf of any eligible policyholder (the Eligible Policyholder) of Canada Life which is an employee benefit plan (the Plan), subject to applicable provisions of the Act and and/or the Code, other than a Plan established by Canada Life or an affiliate for its own employees, in exchange for such Eligible Policyholder's membership interest in Canada Life, in accordance with the terms of a conversion proposal (the Conversion Proposal) adopted by Canada Life and implemented under the insurance laws of Canada and the State of Michigan.

This exemption is subject to the conditions set forth below in Section II.

Section II. General Conditions

(a) The Conversion Proposal was implemented in accordance with procedural and substantive safeguards that were imposed under the insurance laws of Canada and the State of Michigan and was subject to review and/or approval in Canada by the Office of the Superintendent of Financial Institutions (OSFI) and the Minister of Finance (the Canadian Finance Minister) and, in the State of Michigan, by the Commissioner of Insurance (the Michigan Insurance Commission).

(b) OSFI, the Canadian Finance Minister, and the Michigan Insurance Commissioner reviewed the terms of the options that were provided to Eligible Policyholders of Canada Life as part of their separate reviews of the Conversion Proposal. In this regard,

(1) OFSI (i) Authorized the release of the Conversion Proposal and all information to be sent to Eligible Policyholders, (ii) oversaw each step of the conversion process (the Conversion), and (iii) made a final recommendation to the Canadian Finance Minister on the Conversion Proposal;

(2) The Canadian Finance Minister, in his sole discretion, could consider such factors as (i) Whether the Conversion Proposal was fair and equitable to Eligible Policyholders, (ii) whether the Conversion Proposal was in the best interests of the financial system in Canada, and (iii) if sufficient steps had been taken to inform Eligible Policyholders of the Conversion Proposal and of the special meeting on Conversion;

(3) The Michigan Insurance Commission made a determination that the Conversion Proposal was (i) Fair and equitable to all Eligible Policyholders and (ii) consistent with the requirements of Michigan law; and

(4) Both the Canadian Finance Minister and the Michigan Insurance Commissioner concurred on the terms of the Conversion Proposal.

(c) Each Eligible Policyholder had an opportunity to vote to approve the Conversion Proposal after full written disclosure was given to the Eligible Policyholder by Canada Life.

(d) One or more independent fiduciaries of a Plan that was an Eligible Policyholder received Common Shares, Cash or Policy Credits pursuant to the terms of the Conversion Proposal and neither Canada Life nor any of its affiliates exercised any discretion or provided ''investment advice,'' as that term is defined in 29 CFR 2510.3–21(C), with respect to such acquisition.

(e) After each Eligible Policyholder was allocated 100 Common Shares, additional consideration was allocated to such Eligible Policyholder who owned an eligible policy based on an actuarial formula that took into account such factors as the total cash value, the basic annual premium and the duration of such eligible policy. The actuarial formula was reviewed by the Canadian Finance Minister and the Michigan Insurance Commissioner.

(f) All Eligible Policyholders that were Plans participated in the transactions on the same basis within their class groupings as other Eligible Policyholders that were not Plans.

(g) No Eligible Policyholder paid or will pay any brokerage commissions or fees to Canada Life or its affiliates in connection with their receipt of Common Shares, in connection with the implementation of the secondary offering or the assisted sales program.

(h) All of Canada Life's policyholder obligations will remain in force and will not be affected by the Conversion Proposal.

Section III. Definitions

For purposes of this exemption:

(a) The term ''Canada Life'' means the Canada Life Assurance Company and any affiliate of Canada Life as defined in paragraph (b) of this Section III.

(b) An ''affiliate'' of Canada Life Includes—

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with Canada Life; (For purposes of this paragraph, the term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.) or

(2) Any officer, director or partner in such person.

(c) The term ''Eligible Policyholder'' means a policyholder who—

(i) Was the owner of a voting policy at any time on April 2, 1998 (the Eligibility Day):

(ii) Became the owner of a voting policy, if the voting policy was applied for by that person before the Eligibility Day, and the application was received by Canada Life on or before the close of business on June 30, 1998; or

(iii) Was the owner of a voting policy that lapsed before June 2, 1998 and, where the policy terms provided that, as of June 2, 1998, the owner was entitled to request that the policy be reinstated, the policy was reinstated by the person who was the owner at the time the policy lapsed in accordance with its terms (without regard to when the right to reinstate expired) during the period which began on April 2, 1998 and ended 90 days before the special meeting.

(d) The term ''Policy Credit'' means—

(1) For an individual life insurance policy with respect to which dividends may be paid, dividend deposits when the dividend deposit option has been selected under the policy and, in all other cases, dividend additions;

(2) For in individual life insurance policy other than a policy with respect to which dividends may be paid, an increase in the fund value (to which no sales or surrender or similar charges will be applied):

(3) For an individual deferred annuity policy with respect to which dividends may be paid, dividend additions;

(4) For an individual deferred annuity policy other than a policy with respect to which dividends may be paid, an increase in accumulation value (to which no sales or surrender or similar charges will be applied); and

(5) For a supplementary contract, settlement option or annuity in annuitization status, an increase in the periodic annuity payment amount. If the periodic annuity payment is on a life basis, the increase will be a life annuity with cash refund basis.

EFFECTIVE DATE: This exemption is effective as of November 4, 1999.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption that was published on May 4, 2000 at 65 FR 25956.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fidicuary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 30th day of June, 2000.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 00–17066 Filed 7–5–00; 8:45 am]

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LIBRARY OF CONGRESS

Copyright Office

[Docket No. 99–3 CARP DD 95–98]

Distribution of 1995, 1996, 1997, and 1998 Digital Audio Recording Technology Royalties

AGENCY: Copyright Office, Library of Congress.

ACTION: Announcement of the schedule for the proceeding.

SUMMARY: The Copyright Office of the Library of Congress is announcing the schedule for the 180-day arbitration period for the Copyright Arbitration Royalty Panel (''CARP'') proceeding to determine the distribution of the 1995–98 digital audio recording technology (''DART'') royalties in the Musical Works Funds.

DATES: Filings must be submitted according to the announced schedule, except as otherwise provided by Order of the Copyright Arbitration Royalty Panel.

ADDRESSES: If hand delivered, parties shall deliver an original and five copies of all written filings concerning this proceeding to: Office of the Copyright General Counsel, James Madison Memorial Building, First and Independence Avenue, SE., Room LM–403, Washington, DC 20540. If sent by mail, filings should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel (''CARP''), PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

A. Background

On May 4, 1999, the Copyright Office published a notice in the **Federal Register** requesting comment as to the existence of a controversy concerning the distribution of the 1995, 1996, 1997, and 1998 DART royalty fees in the Musical Works Funds and consolidating the consideration of the distribution of the 1995–98 Musical Works Funds into a single proceeding. 64 FR 23875 (May 4, 1999). The following parties filed comments and Notices of Intent to Participate: Carl DeMonbrun/Polyphonic Music, Inc. (''DeMonbrun''); Broadcast Music, Inc. (''BMI''), the American Society of Composers, Authors and Publishers (''ASCAP''), SESAC, Inc. (''SESAC''), the Harry Fox Agency (''HFA''), the Songwriters Guild of America (''SGA''), and Copyright Management, Inc. (''CMI'') (collectively the ''Settling Parties''); James Cannings/Can Can Music (''Cannings''); Alicia Carolyn Evelyn (''Evelyn''); and Eugene ''Lambchops'' Curry/ TaJai Music, Inc. (''Curry'').

On September 21, 1999, the Office issued an Order announcing the precontroversy discovery schedule for the proceeding, beginning on November 15, 1999. See Order in Docket No. 99–3 CARP DD 95–98 (September 21, 1999). Prior to commencement of the 45-day precontroversy discovery period, the Office was notified that Cannings and DeMonbrun had settled their respective controversies with the Settling Parties. Thus, the parties who will appear before the CARP in the current proceeding are the Settling Parties, Evelyn, and Curry.

The September 21, 1999, Order also set the initiation of the arbitration for February 28, 2000. However, the Office's duty to publish every two years a new list of arbitrators eligible to serve on a CARP rendered the February 28 initiation date unworkable. See 37 CFR 251.3. On January 14, 2000, in accordance with § 251.3(b), the Office published the list of arbitrators eligible to serve on a CARP initiated during 2000 and 2001. 65 FR 2439 (January 14, 2000). Because the time period between the publication of the arbitrator list and the February 28 initiation date was not sufficient to complete the selection of arbitrators for this proceeding, the Office reset the initiation of the arbitration to April 10, 2000. See Order in Docket No. 99–3 CARP DD 95–98 (March 14, 2000).

On April 10, 2000, the Office published a notice initiating the 180-day arbitration period for this proceeding. 65 FR 19025 (April 10, 2000). Once the arbitrators for this proceeding were selected, the Office scheduled the initial meeting between the arbitrators and the parties for May 16, 2000. However, the chairperson of the panel resigned out of concern that potential conflicts of interest, which were not known to the arbitrator at the time of selection, may exist under § 251.32. Because of these concerns, the Copyright Office canceled the May 16, 2000, meeting between the parties and the original panel of arbitrators. Pursuant to § 251.6(f), the remaining two arbitrators selected a new chairperson. On June 14, 2000, in accordance with § 251.6(f), the Office announced the suspension of the 180-day arbitration period from May 16, 2000, to June 16, 2000, the resumption of the 180-day period on June 16, 2000, the new chairperson of the panel, and the time and place of the rescheduled initial meeting, which took place on June 19, 2000. See 65 FR 37412 (June 14, 2000).

B. The Schedule

Section 251.11(b) of 37 CFR provides: ''At the beginning of each proceeding, the CARP shall develop the original schedule of the proceeding which shall be published in the **Federal Register** at

least seven calendar days in advance of the first meeting. Such announcement shall state the times, dates, and place of the meetings, the testimony to be heard, whether any of the meetings, or any portion of a meeting, is to be closed, and if so, which ones, and the name and telephone number of the person to contact for further information.''

All meetings of the CARP are open to the public, unless otherwise specified. To ensure that the public receives adequate notice of such meetings, the rule requires that the Office publish a schedule of the meetings at least seven days before the first meeting. See 59 FR 2550 (January 18, 1994). As set forth below, there are no further meetings for this proceeding scheduled at this time; thus, the seven-day advance publication requirement is unnecessary in this instance. Accordingly, this notice fulfills the requirements of § 251.11(b) for the proceeding to determine the distribution of the 1995–98 DART royalties in the Musical Works Funds.

On June 19, 2000, the parties to this proceeding met with the arbitrators for the purpose of setting a schedule and discussing the procedural aspects of this proceeding. The key procedural issue before the Panel at the outset of the proceeding was the consideration of the issue designated to the CARP of whether to suspend formal hearings and make the determination as to the distribution of the 1995–98 DART royalties in the Musical Works Funds on the written pleadings. See Order in Docket No. 99–3 CARP DD 95–98 (December 22, 1999). After hearing argument from all parties, the Panel announced its decision to waive the requirement of oral evidentiary hearings and to proceed upon the written record alone. The Panel stated in its Order that the following schedule would govern the remainder of the proceeding:

Deadline for submission of any revision desired at this time of a party's claim, pursuant to § 251.43(d): July 7, 2000.

Deadline for submission of any rebuttal case desired by a party: July 28, 2000.

Deadline for submission of findings of fact and conclusions of law and proposed orders, including specific calculations of royalty payments: August 18, 2000.

Deadline for submission of reply findings of fact and conclusions of law and proposed orders: August 28, 2000.

Order in Docket No. 99–3 CARP DD 95–98 (June 19, 2000).

At this time, the parties have not moved to close any portion of the proceeding to the public. Further refinements to the schedule will be issued as orders to the parties participating in the proceeding. All changes will be noted in the docket file of the proceeding, as required by the Copyright Office regulations governing the administration of CARP proceedings. 37 CFR 251.11(c).

Dated: June 30, 2000.

David O. Carson,

General Counsel.

[FR Doc. 00–17108 Filed 7–5–00; 8:45 am]

BILLING CODE 1410–33–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On May 12, 2000, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on June 28, 2000 to the following applicants:

Norbert Wu, Permit No. 2001–008

Tom Yelvington, Permit No. 2001–010

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 00–17061 Filed 7–5–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Conservation Act of 1978; Notice of Permit Modification

AGENCY: National Science Foundation.

SUMMARY: The Foundation modified a permit to conduct activities regulated under the Antarctic Conservation Act of 1978 (Pub. L. 95–541; Code of Federal Regulations Title 45, Part 670).

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Officer, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Description of Permit and Modification

1. On September 21, 1999, the National Science Foundation issued a permit (ACA #2000–001) to Dr. Steven D. Emslie after posting a notice in the August 17, 1999 **Federal Register.** Public comments were not received. A request to modify the permit was posted in the **Federal Register** on April 11, 2000. No public comments were received. The modification, issued by the Foundation on May 16, 2000, allows for entry into additional Antarctic Specially Protected Areas for the purpose of conducting surveys and excavations by surveying ice-free areas to locate evidence of a past or modern breeding penguin colony. Access to the Antarctic Specially Protected Areas will be on an opportunity basis only depending upon vessel cruise tracks and schedules.

Location

ASPA 104—Sabrina Island, Balleny Island
ASPA 105—Beaufort Island
ASPA 107—Dion Islands
ASPA 108—Green Island, Berthelot Islands
ASPA 112—Coppermine Peninsula, Robert Island
ASPA 115—Lagotellerie Island, Marguerite Bay
ASPA 116—New College Valley, Caughley Beach, Cape Bird
ASPA 117—Avian Island, Northwest Marguerite Bay
ASPA 126—Byers Peninsula, Livingston Island
ASPA 133—Harmony Point, Nelson Island
ASPA 134—Cierva Point, Danco Coast
ASPA 149—Cape Shirref, Livingston Island
ASPA 150—Ardley Island, King George Island
ASPA 154—Cape Evans, Ross Island

Dates

January 1, 2000 to December 31, 2005.

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 00–17062 Filed 7–5–00; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–336]

Northeast Nuclear Energy Company, et al.; Millstone Nuclear Power Station Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Title 10 of the Code of Federal Regulations, Part 50 (10

CFR Part 50), Appendix R, Section III.J to Facility Operating License No. DPR–65, issued to the Northeast Nuclear Energy Company, et al., (NNECO or the licensee), for operation of the Millstone Nuclear Power Station, Unit 2, located in Waterford, Connecticut.

Environmental Assessment

Identification of the Proposed Action

The licensee has requested an exemption from the requirements of 10 CFR Part 50, Appendix R, Section III. J to the extent that it requires emergency lighting units with at least an 8-hour battery power supply to light all areas needed for operation of safe shutdown equipment and in access and egress routes thereto. The licensee based this exemption request primarily on the security lighting system currently installed at the plant for access and egress route emergency lighting to meet the underlying purpose of the rule. The underlying purpose of the rule is to ensure that lighting of sufficient duration and reliability is provided to allow operation of equipment required for post-fire, safe shutdown of the reactor.

The proposed action is in accordance with the licensee's application for an exemption dated February 14, 2000, as supplemented by letters dated April 5 and May 31, 2000.

The Need for the Proposed Action

The proposed action is needed for the licensee to avoid the burden of full compliance with the regulations. Full compliance with the regulations would require battery powered lights to illuminate a large outdoor area for an 8-hour period. It is not considered practical to illuminate large outdoor areas with battery powered lighting for an 8-hour period. The licensee already has diesel-powered security lighting in the same area and portable lighting equipment is also available. As noted above, the underlying purpose of the rule can be met without the burden of installing additional lighting.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action. The underlying purpose of the rule the licensee is requesting to be exempted from is to ensure that the plant can be safely shut down in the event of a fire.

Based on the availability and reliability of the security lighting and the availability of portable lighting, there is reasonable assurance that the access and egress routes through the yard area that are relied on for safe shutdown of the facility can be accessed in the event of a fire.

On the basis of its review, the staff concludes that the licensee will still have the capability to safely shut down the plant, in the event of a fire, after this exemption has been granted.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of 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 non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological 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 Millstone Nuclear Power Station, Unit 2.

Agencies and Persons Consulted

In accordance with its stated policy, on March 16, 2000, the staff consulted with the Connecticut State official, Michael Firsick of the Division of Radiation, Department of Environmental Protection, 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 Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated February 14, 2000, as supplemented by letters dated April 5 and May 31, 2000, which are 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 Agencywide Documents Access and Management System (ADAMS) Public Library component of the NRC Web site, <*http://www.nrc.gov*> (the Electronic Reading Room).

Dated at Rockville, Maryland, this 29th day of June, 2000.

For the U.S. Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–17033 Filed 7–5–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2, Environment Assessment and Finding of No Significant Impact

Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating Licenses Nos. DPR–77 and DPR–79, issued to the Tennessee Valley Authority (TVA, the licensee) for operation of the Sequoyah Nuclear Plant (SQN) Units 1 and 2, respectively. The facility is located in Hamilton County, Tennessee.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise License Condition 2.B.(5) in each of the licenses, which authorizes possession of byproduct and special nuclear materials (SNM). The License Condition states:

> Pursuant to the Act and 10 CFR Parts 30, 40, and 70, to possess, but not separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

These proposed amendments change the words ''as may be produced by the operation of the facility'' to ''as may be produced by the operation of the Sequoyah or Watts Bar Unit 1 Nuclear Plants.'' Upon NRC approval of the

requested license amendments, TVA plans to transport low-level radioactive waste (LLRW) from Watts Bar Nuclear Plant (WBN), Unit 1, to the SQN site for storage in a facility designed for that purpose.

The proposed action is in accordance with TVA's application for license amendments dated December 17,1999.

The Need for the Proposed Action

Byproduct material and small amounts of SNM are present as the radioactive contaminants in certain LLRW that has, in the past, been shipped to the Chem-Nuclear facility near Barnwell, South Carolina, for permanent deep-trench disposal. The LLRW being considered for storage at the SQN site includes ion-exchange resins, pressurized water reactor filters, tank solids, irradiated metal reactor components, and dry active waste.

TVA believes that License Condition 2.B.(5) was intended, consistent with nonproliferation objectives, to restrict licensees from separating nuclides generated in the course of operation of the licensed facility; it was not intended to restrict licensees from possessing low-level by-product and SNM produced by operation of another facility. Nonetheless, TVA is requesting that License Condition 2.B.(5) be modified as stated above to remove any question of interpretation with respect to receipt of LLRW generated at Watts Bar Unit 1 at the SQN site.

TVA has, until now, made regular shipments of Class B and Class C LLRW (as defined in 10 CFR Part 61) to the South Carolina Barnwell permanent disposal facility. Class A dry active waste (the lowest radioactivity level) is routinely shipped to the Envirocare facility in Utah, which is licensed to receive Class A dry active waste, but not other types of Class A, Class B, or Class C wastes. Recent escalating LLRW access and disposal fees at Barnwell, and the prospect of sudden closure of the facility, with no alternative disposal facility for LLRW (other than Class A dry active waste) becoming available in the foreseeable future, have led TVA to develop an alternative solution until such time as a practical off-site repository option again becomes available. The cost to TVA of sending LLRW to Barnwell for disposal has increased 800% over the past 10 years. Furthermore, South Carolina has recently passed legislation to enter into a LLRW disposal pact with the States of Connecticut and New Jersey (known as the Atlantic Compact) and has announced that, ultimately, only those states will be allowed to ship LLRW to Barnwell. TVA has a very large interim storage facility at the SQN site with ample storage space for LLRW from operation of both SQN units and the single WBN unit. The LLRW storage modules were constructed at SQN in the early 1980s but have never been utilized.

The proposed License Condition revision is needed to allow the Watts Bar Nuclear Plant the option to ship LLRW to the SQN site, thereby permitting continued operations of the WBN plant. TVA has stated its intention to ship any stored waste (predominantly Class B and C) to the Envirocare of Utah facility (or any other facility) at such time as that facility is licensed to receive and dispose of such wastes.

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that, with regard to radiological impacts to the general public, the proposed action involves activities located entirely within the restricted area as defined in 10 CFR Part 20. 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.

The NRC granted Materials License No. 41–08165–14 (Docket No. 30–19101) on September 17, 1982, for use of the LLRW storage facility at SQN for a period of 5 years. At the same time, the NRC issued a Safety Evaluation Report and Environmental Impact Appraisal to support operation of the storage facility using assumptions consistent with the 40-year plant operating license. However, consistent with the NRC's policy of utilizing permanent off-site disposal of LLRW whenever possible, LLRW shipments were continued to the Barnwell facility. Consequently, no radioactive waste has ever been stored in the SQN LLRW storage facility. The Materials License was renewed once prior to expiration, but TVA requested its termination on April 25, 1990, since there were no plans for use of the storage facility in the foreseeable future. The termination request noted that if use of the facility became necessary, TVA would not need to renew the materials license but would, instead, perform a 10 CFR 50.59 evaluation as allowed in Generic Letter 81–38, ''Storage of Low-Level Radioactive Wastes at Power Reactor Sites.''

Because of the licensee's ALARA [As Low As Reasonably Achievable] program and significant reductions in generation of LLRW (including coolant chemistry and reactor fuel quality improvements), the amount of LLRW expected to be generated and stored in the SQN LLRW storage facility for two SQN units and one WBN unit is significantly less in volume and radioactivity than the assumptions used in the Environmental Impact Appraisal that supported the Materials License granted by the NRC in 1982 for operation of two SQN units for the life of the plant. Specifically, there would be no incremental increase in occupational radiation exposure over that assumed in previous NRC actions related to operation of this storage facility. 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.

As stated by the NRC in its Environmental Impact Appraisal for Materials License No. 41–08165–14 for the SQN LLRW on-site storage facility, the quality of the human environment will not be significantly affected and there will be no significant environmental impact from the operation of the existing SQN LLRW interim storage facility. The added LLRW stored as a result of WBN's single-unit operations will remain well within the original design and proposed capacity limitations considered in the above-mentioned Environmental Impact Appraisal.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Alternative 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 exemption would result in no change in environmental impacts already analyzed by the NRC and TVA. 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 Environmental Impact Appraisal for Materials License No. 41–08165–14, dated September 17, 1982,

supporting the materials license for the SQN LLRW storage facility.

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with an official of the State of Tennessee, Ms. Joelle Key, on May 4, 2000, regarding the environmental impact of the proposed action. Ms. Key had a question regarding the quality of packaging for LLRW material to be stored at this facility. She was advised that the material will be packaged in 300-year high-integrity containers and will not need repackaging prior to shipment to a permanent disposal facility. Ms. Key indicated the State was in general agreement with TVA's request.

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 this action, see the licensee's letter dated December 17, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. Publically available records are also accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Electronic Reading Room) and from the Agencywide Documents Access and Management System.

Dated at Rockville, Maryland, this 29th day of June 2000.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 00–17034 Filed 7–5–00; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–350–1430–PE–01–24–1A]

OMB Approval Number 1004–0010; Notice of Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The Bureau of Land Management (BLM) has submitted the proposed collection of information listed below to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). On March 20, 2000, the BLM published a notice in the **Federal Register** (65 FR 15001) requesting comment on this proposed collection. The comment period ended on May 19, 2000. The BLM received no comments from the public in response to that notice. Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the BLM information clearance officer at the telephone number listed below; (202) 452–5033.

The OMB is required to respond to this request within 60 days but may respond after 30 days. For maximum consideration your comments and suggestions on the requirement should be made within 30 days directly to the Office of Management and Budget, Interior Department Desk Officer (1004–0010), Office of Information and Regulatory Affairs, Washington, DC 20503, telephone (202) 395–7340. Please provide a copy of your comments to the Bureau Clearance Officer (WO–630), 1849 C St., NW., Mail Stop 401 LS, Washington, DC 20240.

Nature of Comments: We specifically request your comments on the following:

1. Whether the collection of information is necessary for the proper functioning of the BLM, including whether the information will have practical utility;
2. The accuracy of the BLM's estimate of the burden of collecting the information, including the validity of the methodology and assumptions used;
3. The quality, utility and clarity of the information to be collected; and
4. How to minimize the burden of collecting the information on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology.

Title: Color-of-Title (43 CFR part 2540). OMB approval number: 1004–0010.

Abstract: The BLM is proposing to renew the approval of an information collection for an existing rule at 43 CFR part 2540. That rule provides guidelines and procedures for transferring legal title to public lands administered by the BLM from the United States to eligible individuals, groups, or corporations who have valid claims under the Color-of-Title Act of December 22, 1928 (45 Stat. 1069) as amended by the Act of July 28, 1953 Stat. 227), (U.S.C. 1068–1068b).

Bureau Form Number: 2540–2.

Frequency: Once.

Description of Respondents: Respondents are individuals, groups, or corporations.

Estimated Completion Time: 1 hour.

Annual Responses: 20.

Filing Fee Per Response: $10.

Annual Burden Hours: 20.

Bureau Clearance Officer: Shirlean Beshir (202) 452–5033.

Dated: June 23, 2000.

Shirlean Beshir,

Acting BLM Information Clearance Officer.

[FR Doc. 00–17087 Filed 7–5–00; 8:45 am]

BILLING CODE 4310–84–M

SMALL BUSINESS ADMINISTRATION

Notice of Sale of Business and Disaster Assistance Loans

AGENCY: Small Business Administration.

ACTION: Notice of sale of business and disaster assistance loans—Loan Sale #2.

SUMMARY: This notice announces the Small Business Administration's (''SBA'') intention to sell approximately 25,000 secured and unsecured business and disaster assistance loans, (collectively referred to as the ''Loans''). This is the first sale of Disaster Assistance Loans and includes both business and consumer loans. The total unpaid principal balance of the Loans is approximately $1 billion. SBA previously guaranteed some of the Loans under various sections of the Small Business Investment Act, as amended, 15 U.S.C. 695 *et seq.* Any SBA guarantees that might have existed at one time have been paid and no SBA guaranty is available to the successful bidders in this sale. The majority of the loans originated from and are serviced by SBA. The collateral for the secured Loans includes commercial and residential real estate and other businesses and personal property located nationwide. This notice also summarizes the bidding process for the Loans.

DATES: The Bidder Information Package will be available to qualified bidders beginning on or about May 26, 2000. The Bid Date is scheduled for August 1, 2000, and closings are scheduled to occur between August 14, 2000 and September 8, 2000. These dates are subject to change at SBA's discretion.

ADDRESSES: Bidder Information Packages will be available from the SBA's Transaction Financial Advisor, Merrill Lynch Mortgage Capital Inc. (''Merrill Lynch''). Bidder Information Packages will only be made available to

parties that have submitted a completed Confidentiality Agreement and Bidder Qualification Statement and have demonstrated that they are qualified bidders. The Confidentiality Agreement and Bidders Qualification Statement are available on the SBA Website at *www.sba.gov/assets/sale2.html* or by calling the SBA Loan Sale 2 Center toll-free at Merrill Lynch at (888) 590–6872. The completed Confidentiality and Bidder Qualification Statement can be sent to the attention of John Winchester, SBA Loan Sale 2, by either fax, at (212) 449–2450 or by mail, to Merrill Lynch Mortgage Capital Inc., World Financial Center, North Tower, 10th Floor, New York, NY, 10281–1310. The Due Diligence Facility is scheduled to open on or about June 2, 2000 and close on or about July 28, 2000. These dates are subject to change at SBA's discretion.

FOR FURTHER INFORMATION CONTACT: B. John Farmakides, Program Manager, Small Business Administration, 409 Third Street, SW, Washington, DC 20416: 202–205–7134. This is not a toll free number. Hearing or speech-impaired individuals may access this number via TDD/TTY by calling the Federal Information Relay Service's toll-free number at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: SBA intends to sell approximately 25,000 secured and unsecured business and disaster assistance loans, collectively referred to as the ''Loans''. The Loans include performing, sub-performing and non-performing loans. The Loans will be offered to qualified bidders in pools that will be based on such factors as performance status, collateral status, collateral type and geographic location of the collateral. A list of the Loans, loan pools and pool descriptions is contained in the Bidder Information Package. SBA will offer interested persons an opportunity to bid competitively on loan pools, subject to conditions set forth in the Bidder Information Package. SBA shall use its sole discretion to evaluate and determine winning bids. No loans will be sold individually. The Loans to be sold are located throughout the United States as well as Puerto Rico, U.S. Virgin Islands, Guam and other Pacific Islands.

The Bidding Process

To ensure a uniform and fair competitive bidding process, the terms of sale are not subject to negotiation. SBA will describe in detail the procedure for bidding on the Loans in the Bidder Information Package, which will include bid forms, a non-negotiable loan sale agreement prepared by SBA (''Loan Sale Agreement''), specific bid instructions, as well as pertinent loan information such as total outstanding unpaid principal balance, interest rate, maturity term, aggregate payment history and collateral information including geographic location and type. The Bidder Information Package also includes CD–ROMs that contain information pertaining to the Loans.

The Bidder Information Package will be available approximately 9 weeks prior to the Bid Date. It will contain procedures for obtaining supplemental information about the Loans. Any interested party may request a copy of the Bidder Information Package by sending a written request together with a duly executed copy of the Confidentiality Agreement and a Bidder Qualification Statement to the address specified in the **ADDRESSES** section of this notice.

Prior to the Bid Date, a Bidder Information Package Supplement will be mailed to all recipients of the original Bidder Information Package. It will contain the final list of loans included in Sale #2 and any final instructions for the sale.

Deposit And Liquidated Damages

Each Bidder must include with its bid a deposit equal to 10 percent of the amount of the bidder's highest bid. If a successful bidder fails to abide by the terms of the Loan Sale Agreement, including paying SBA any remaining sums due pursuant to the Loan Sale Agreement and closing within the time period specified in the Loan Sale Agreement, SBA shall retain the deposit as liquidated damages.

Due Diligence Facility

A bidder due diligence period will take place beginning on or about June 2, 2000. During the bidder due diligence period, qualified bidders may, for a non-refundable assessment of $500 US, review all asset file documents that have been imaged onto a database by visiting the due diligence facility located at 499 South Capital, SW, Suite 300, Washington, DC 20003 and/or via modem. Bidders that have paid the due diligence assessment of $500 US may also request CD–ROMs that contain substantial due diligence materials such as loan payment history and updated third party reports.

Specific instructions for ordering information in electronic format or making an appointment to visit the due diligence facility are included in the Bidder Information Package.

SBA Reservation of Rights

SBA reserves the right to remove loans from the sale at any time prior to the Bid Date, and add loans prior to the Cut-Off Date for any reason and without prejudice to its right to include any loans in a later sale. SBA also reserves the right to terminate this sale at any time prior to the Bid Date.

SBA reserves the right to use its sole discretion to evaluate and determine winning bids. SBA also reserves the right in it sole discretion and for any reason whatsoever to reject any and all bids.

SBA reserves the right to conduct a ''best and final'' round of bidding wherein bidders will be given the opportunity to increase their bids. A best and final round shall not be construed as a rejection of any bid or preclude SBA from accepting any bid made by a bidder.

SBA reserves the right to sell less than 100 percent of the Loans offered for sale and ''re-offer'' the remaining loans subsequent to the initial bid.

Ineligible Bidders

The following individuals and entities (either alone or in combination with others) are ineligible to bid on the Loans included in the sale:

(1) Any employee of SBA, any member of any such employee's household and any entity controlled by a SBA employee or by a member of such employee's household.

(2) Any individual or entity that is debarred or suspended from doing business with SBA or any other agency of the United States Government.

(3) Any contractor, subcontractor, consultant, and/or advisor (including any agent, employee, partner, director, principal, or affiliate of any of the foregoing) who will perform or has performed services for, or on-behalf of SBA, either in connection with this sale or the development of SBA's loan sale program.

(4) Any individual that was an employee, partner, director, agent or principal of any entity, or individual prescribed in paragraph (3) above at any time during which the entity or individual performed services for, or on behalf of SBA, either in connection with this sale or the development of SBA's loan sale program.

(5) Any individual or entity that has used or will use the services, directly or indirectly, of any person or entity ineligible under any of paragraphs (1) through (4) above to assist in the preparation of any bid in connection with this sale.

Loan Sale Procedure

SBA plans to use a competitive sealed bid process as the method to sell the Loans. SBA believes this method of sale

optimizes the return on the sale of Loans and attracts the largest field of interested parties. This method also provides the quickest and most efficient vehicle for the SBA to dispose of the Loans.

Post Sale Servicing Requirements

The Loans will be sold servicing released. Purchasers of the Loans and their successors and assigns will be required to service the Loans in accordance with the applicable provisions of the Loan Sale Agreement for the Life of the Loans.

In addition, the Loan Sale Agreement establishes certain requirements that a servicer must satisfy in order to service the Loans.

Scope of Notice

This notice applies to Loan Sale Number #2 and does not establish agency procedures and policies for other loan sales. If there are any conflicts between this Notice and the Bidder Information Package, the Bidder Information Package shall prevail.

Jane Palsgrove Butler,

Associate Administrator for Financial Assistance.

[FR Doc. 00–17038 Filed 7–5–00; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3266]

State of Louisiana (And Contiguous Counties in Texas and Arkansas)

Caddo Parish and the contiguous Parishes of Bossier, De Soto, and Red River in the State of Louisiana; Cass, Harrison, Marion, and Panola Counties in the State of Texas; and Miller and Lafayette Counties in the State of Arkansas constitute a disaster area as a result of damages caused by severe storms and tornadoes that occurred on April 23, 2000. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on August 25, 2000, and for economic injury until the close of business on March 26, 2001, at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155.

The interest rates are:

For Physical Damage

Homeowners with credit available elsewhere—7.375%

Homeowners without credit available elsewhere—3.687%

Businesses with credit available elsewhere—8.000%

Businesses and non-profit organizations without credit available elsewhere—4.000%

Others (including non-profit organizations) with credit available elsewhere—6.750%

For Economic Injury

Businesses and small agricultural cooperatives without credit available elsewhere—4.000%

The numbers assigned to this disaster for physical damage are 326612 for Louisiana, 326712 for Texas, and 326812 for Arkansas. For economic injury the numbers are 9H5600 for Louisiana, 9H5700 for Texas, and 9H5800 for Arkansas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: June 26, 2000.

Aida Alvarez,

Administrator.

[FR Doc. 00–16982 Filed 7–5–00; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

Region IV Advisory Council Meeting; Public Meeting

The Southeastern States Regulatory Fairness Board will hold a public hearing on August 1, 2000, at 9 a.m. located at Tougaloo College, Health and Wellness Center, 500 W. County Line Road, Tougaloo, Mississippi to receive comments and testimony from small businesses and representatives of trade associations concerning federal regulatory enforcement or compliance actions taken by federal agencies. Transcripts of these proceedings will be posted on the Internet. These transcripts are subject only to limited review by the National Ombudsman. For further information, call Elestine Harvey (312) 353–1744.

Bettie Baca,

Counselor to the Administrator/Public Liaison.

[FR Doc. 00–16980 Filed 7–5–00; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council Meeting; Public Meeting

The New England States Regulatory Fairness Board will hold a public hearing on August 22, 2000, at 1 p.m. located at Holiday Inn, Manchester Center, 700 Elm Street, Manchester, NH to receive comments and testimony from small businesses and representatives of trade associations concerning federal regulatory enforcement or compliance actions taken by federal agencies. Transcripts of these proceedings will be posted on the Internet. These transcripts are subject only to limited review by the National Ombudsman. For further information, call Elestine Harvey (312) 353–1744.

Bettie Baca,

Counselor to the Administrator/Public Liaison

[FR Doc. 00–16981 Filed 7–5–00; 8:45 am]

BILLING CODE 8025–01–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 collection listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, comments and recommendations regarding the information collection 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. Survey of Low-Income and Disabled Children–0960–NEW. The Survey of Low-Income and Disabled Children (SOLID KIDS) is designed to collect nationally representative data on children and young adults with Supplement Security Income (SSI) experience, including current and previous SSI recipients and SSI applicants. To solicit information, SSA will employ two versions of the SOLID KIDS survey. One survey will be directed at children under age 17. The other, a young adult version, is designed

for children who are 17 or older at the time of the survey.

The survey is designed to provide SSA with data on SSI recipients in the following areas:

- Disability and health status;
- Health care utilization;
- Health insurance coverage;
- Out-of-pocket health care expenses;
- Education and training;
- Service utilization and cost;
- Employment income assets;
- Child care, and
- Housing and transportation.

This information will allow SSA to answer policy-relevant questions, for example, the impact of welfare reform on SSI children and young adults, cost of caring for children and young adults with disabilities, transition issues for young adults with disabilities, service utilization patterns, health care access, and unmet health care needs.

The data will be used for internal research and policy evaluation, for briefings, in mandated reports to Congress, in published descriptions in the Social Security Bulletin and elsewhere. External researchers will have access to public use files.

Respondents to the SOLID KIDS survey, children's version, will be parents or guardians of the sample children under age 17 at the time of the survey. The young adult version of the SOLID KIDS survey is designed for children who are 17 or older at the time of the survey. For young adults who are still living in their parents' household, the respondent will be the parent or guardian. For young adults who are living away from their parents—for example, in a group home or facility, or in their own home or apartment—the respondent will be the young adults themselves. In cases where the young adult is living outside of the parent's home and is unable to complete the survey due to disability, a proxy respondent will be selected.

Number of respondents: 9,857

Number of Response: 1

Average burden per response: 58 minutes

Estimated Annual Burden: 9,528

(SSA Address)

Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

Dated: June 29, 2000.

Frederick W. Brickenkamp,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 00–17037 Filed 7–5–00; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

Ticket to Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of meeting.

DATES: July 24, 2000, 1:30 p.m.—5 p.m.– July 25, 2000, 9 a.m.–4:30 p.m.

ADDRESSES: Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION:

Type of meeting: The meeting is open to the public.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces the first meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), Public Law 106–170, establishes the Panel to advise the Commissioner of Social Security, the President, and the Congress on issues related to work incentives programs, planning, and assistance for individuals with disabilities as provided under section 101 (f)(2)(A) of TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

This is the first deliberative meeting of the Panel. No public testimony will be heard at this meeting. However, interested parties are invited to attend the meeting. The Panel will meet to hear presentations on the status of TWWIIA implementation, review their charter, and discuss their organization and upcoming agenda.

Agenda: The Panel will meet commencing Monday, July 24, 2000 at, 1:30 p.m. –5 p.m. and Tuesday, July 25, 2000, at 9 a.m.–4:30 p.m. At this meeting, the Panel will use this time to hear presentations on the Status of TWWIIA implementation, review their charter, and discuss their organization and upcoming agenda. Since seating may be limited, persons interested in attending this meeting should contact the Panel staff by E-mailing Reggie Sajauskas, Designated Federal Officer, at ''reggie.sajauskas@ssa.gov'' or calling (410) 965–5381 by July 17, 2000.

The agenda for the meeting is posted on the Internet at the web site of SSA's Office of Employment Support Programs at ''*http://www.ssa.gov/work.*'' A copy of the agenda also may be obtained in advance of the meeting by contacting the Panel staff at the mailing address, Email address, telephone or FAX number shown below. Requests for materials in alternate formats, *i.e.,* large print, Braille, computer disc, etc. may be made to the Panel staff at the addresses and numbers shown below.

Records are being kept of all Panel proceedings and will be available for public inspection at the Office of Employment Support Programs' web site at ''*http://www.ssa.gov/work*'' or by appointment at the office of the Ticket to Work and Work Incentives Advisory Panel staff, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235. Anyone requiring information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 107 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235;
- Telephone at (410) 965–5381;
- FAX at (410) 966–8597; or
- Email to Reggie Sajauskas, Designated Federal Officer, at ''reggie.sajauskas@ssa.gov.''

Dated: June 29, 2000.

Kenneth S. Apfel,

Commissioner, Social Security Administration.

[FR Doc. 00–17127 Filed 7–5–00; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice #3330]

Advisory Committee On Labor Diplomacy Notice of Meeting

The Advisory Committee on Labor Diplomacy (ACLD) will hold a meeting from 9:45 a.m. to 4 p.m. on July 18, 2000, in the Loy Henderson Room, U.S. Department of State, 2201 C Street, NW., Washington, DC 20520. Committee Chairman Thomas Donahue, former President of the AFL–CIO, will chair the meeting.

The ACLD is comprised of prominent persons with expertise in the area of international labor policy and labor diplomacy. The ACLD advises the Secretary of State and the President on the resources and policies necessary to implement labor diplomacy programs efficiently, effectively and in a manner that ensures U.S. leadership before the international community in promoting the objectives and ideals of U.S. labor policies now and in the 21st century. The ACLD will make recommendations on how to strengthen the Department of State's ability to respond to the many

challenges facing the United States and the federal government in international labor matters. These challenges include the protection of worker rights, the elimination of exploitative child labor, and the prevention of abusive working conditions.

The agenda for the July 18 meeting includes discussion of potential recommendations for Committee consideration.

Members of the public are welcome to attend the meeting as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting must be pre-cleared by calling or faxing the following information, by close of business July 14, to Mark Simonoff at (202) 647–4327 or fax (202) 647–0431 or email simonoff@state.gov: name; company or organization affiliation (if any); date of birth; and social security number. Pre-cleared persons should use the 23rd Street entrance to the State Department and have a driver's license with photo, a passport, a U.S. Government ID or other valid photo identification.

Members of the public may, if they wish, submit a brief statement to the Committee in writing. Those wishing further information should contact Mr. Simonoff at the phone and fax numbers provided above.

Dated: June 30, 2000.

Bennett Freeman,

Acting Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State.

[FR Doc. 00–17082 Filed 7–5–00; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF STATE

[Delegation of Authority No. 145–17]

Foreign Assistance Act of 1961 and Certain Related Acts

By virtue of the authority vested in me by Delegation of Authority No. 145–5 of January 22, 1988, 53 FR 5072, pursuant to Executive Order 12163 of September 29, 1971, 44 FR 56673, as amended, and the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.*, State Department Delegation of Authority No. 145–5–2 of April 4, 1991, is hereby amended to read as follows:

By virtue of the authority vested in me by Delegation of Authority No. 145–5 of January 22, 1988, 53 FR 5072, pursuant to Executive Order 12163 of September 29, 1979, 44 FR 56673, as amended, and the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.*, I hereby delegate to the Assistant Administrator for Latin America and the Caribbean of the U.S. Agency for International Development (USAID) functions conferred on the President by section 534(b)(3)(A), (B), and (C) for the purpose of including law enforcement agencies and personnel in activities financed by USAID to strengthen the administration of justice. All such activities shall be implemented in coordination with the International Criminal Investigative Training Assistance Program of the U.S. Department of Justice.

This delegation shall be published in the **Federal Register**.

Dated: June 13, 2000.

Peter F. Romero,

Acting Assistant Secretary, Bureau of Western Hemisphere Affairs, Department of State.

[FR Doc. 00–17081 Filed 7–5–00; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33891]

Central Gulf Railway, Inc.—Lease and Operation Exemption—Terminal Railway Alabama State Docks

Central Gulf Railway, Inc. (CGR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease certain rail lines from the Terminal Railway Alabama State Docks (TASD), an agency of the State of Alabama, and operate either directly or through the use of a contract agent approximately 0.46 miles of rail line. The rail lines to be leased are located in TASD's Frascati Yard in Mobile, AL. CGR will be leasing Track Nos. 1, 2, and 4, beginning at a point of interchange with TASD 90 feet east of Ezra Trice Boulevard and extending east 590 feet for Track Nos. 1 and 2 and, 1271 feet for Track No. 4. CGR certifies that its projected revenues will not exceed those that would qualify it as a Class III carrier.

The transaction is scheduled to be consummated on or after June 30, 2000.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33891, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, Esq., BALL JANIK, LLP, 1455 F Street, NW, Suite 225, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 27, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–16857 Filed 7–5–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33890]

The International Paper Company—Acquisition of Control Exemption—Moscow, Camden & San Augustine Railroad and Angelina & Neches River Railroad Company

The International Paper Company (IP), a noncarrier, has filed a notice of exemption to acquire control, through stock purchase, of Moscow, Camden & San Augustine Railroad (MCSA) and Angelina and Neches River Railroad Company (ANR) (collectively rail lines), Class III railroads, operating in the State of Texas.[1]

While IP states that the transaction was consummated on or about June 16, 2000, the exemption will not be effective until June 30, 2000 (7 days after the notice of exemption was filed).

IP states that: (i) The rail lines do not connect; (ii) the transaction is not part of a series of anticipated transactions that would connect these railroads with each other or with any other railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail

[1] IP's acquisition of control of MCSA and ANR was accomplished through an Agreement and Plan of Merger dated May 12, 2000, through which IP acquired over 90% of the outstanding common stock of the Champion International Corporation (Champion). Both prior and subsequent to the acquisition, Champion owned 100% of the stock of MCSA and 50% of the stock of ANR.

IP currently owns the Longview, Portland & Northern Railway Company, which operates in the State of Oregon.

carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33890, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Edward D. Greenberg, Galland, Kharasch, Greenberg, Fellman & Swirsky, P.C., Canal Square, 1054 Thirty-First Street, NW., Suite 200, Washington, DC 20007.

Decided: June 27, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–16858 Filed 7–5–00; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Proposed Collection; Comment Request

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice and request for comments.

SUMMARY: In order to comply with the requirements of the Paperwork Reduction Act of 1995, concerning proposed extensions of information collection requirements, FinCEN is soliciting comments concerning Internal Revenue Service (''IRS'') Form 8852, Currency Transaction Report by Casinos—Nevada (''CTRC–N''), which is filed for currency transactions conducted by, at, or through Nevada casinos.

DATES: Written comments must be received on or before September 5, 2000.

ADDRESSES: Direct all written comments to the Financial Crimes Enforcement Network, Office of Compliance and Regulatory Enforcement, Attn.: CTRC–N Comments, Suite 200, 2070 Chain Bridge Road, Vienna, VA 22182–2536.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or for a copy of the form should be directed to Leonard Senia, Regulatory Program Specialist (Team Leader), Office of Compliance and Regulatory Enforcement, (202) 354–6412, or; Stacie A. Larson, Office of Chief Counsel, (703) 905–3590. A copy of the CTRC–N form, as well as all other forms required by the Bank Secrecy Act, can be obtained through the Internet at http://www.irs.ustreas.gov/prod/forms-pubs/forms.html. (Also, comments maybe submitted by electronic mail to the following Internet address: *''regscomments@fincen.treas.gov''* with the caption in the body of the text, ''Attention: PRA Comments—CTRC–N.'')

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act (Titles I and II of Public Law 91–508), as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5330, authorizes the Secretary of the Treasury, *inter alia*, to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters. Regulations implementing Title II of the Bank Secrecy Act, codified at 31 U.S.C. 5311–5314, 5316–5330, appear at 31 CFR Part 103. The authority of the Secretary to administer the Bank Secrecy Act regulations has been delegated to the Director of FinCEN.

Section 5313(a) authorizes the Secretary to issue regulations that require a report when ''a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes.'' Regulations implementing section 5313(a) are found at 31 CFR 103.22 and 31 CFR 103.45(c)(2)(ii). In general, the regulations require the reporting of transactions in currency in excess of $10,000 a day. Casinos as defined in 31 U.S.C. 5312(a)(2)(X) and 31 CFR 103.11(n)(7)(i) are financial institutions subject to the currency transaction reporting requirement. Card clubs, as defined in 31 CFR 103.11(n)(8)(i), are casinos subject to currency transaction reporting. (See 63 FR 1919, January 13, 1998.)

The Currency Transaction Report by Casinos—Nevada, IRS Form 8852, is the form Nevada casinos use to comply with the currency transaction reporting requirements. Form 8852 was designed to take into account, among other things, that Nevada Regulation 6A, ''Cash Transactions Prohibitions, Reporting and Recordkeeping'' prohibits Nevada casinos from conducting some of the transaction types reportable on IRS Form 8362, Currency Transaction Report by Casinos.

Information collected on the CTRC–N is made available, in accordance with strict safeguards, to appropriate criminal law enforcement and regulatory personnel in the official performance of their duties. The information collected is used for regulatory purposes and in investigations involving international and domestic money laundering, tax violations, fraud, and other financial crimes.

This notice proposes no changes to the current text of the Form 8852 or its instructions.

In accordance with requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information on Form 8852 is presented to assist those persons wishing to comment on the information collection. (Since the number of respondents has increased mostly because of new Nevada casinos that have opened for business during 1998 and 1999, the estimates below are based on 1999 filings of Nevada CTRC–Ns.)

Title: Currency Transaction Report by Casinos—Nevada.

Form Number: IRS Form 8852.

OMB Number: 1506–0003.

Description of Respondents: All Nevada casinos, with gross annual gaming revenue in excess of $10 million and having an annual table games statistical win in excess of $2 million.

Estimated Number of Respondents: 110.

Estimated Number of Annual Responses: 128,000.

Frequency: As required.

Estimate of Burden: Reporting average of 19 minutes per response; recordkeeping average of 5 minutes per response.

Estimate of Total Annual Burden on Respondents: Reporting burden estimate = 40,533 hours; recordkeeping burden estimate = 10,667 hours. Estimated combined total of 51,200 hours.

Estimate of Total Annual Cost to Respondents for Hour Burdens: Based on $20 per hour, the total cost to the public is estimated to be $1,024,400.

Estimate of Total Other Annual Costs to Respondents: None.

Type of Request: Extension of a currently approved information collection.

Request for Comments

FinCEN specifically invites comments on the following subjects: (a) Whether the proposed collection of information

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

In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or recordkeepers resulting from the collection of information. Thus, FinCEN also specifically requests comments to assist with this estimate. In this connection, FinCEN requests commenters to identify any additional costs associated with the completion of the form. These comments on costs should be divided into two parts: (1) Any additional costs associated with reporting; and (2) any additional costs associated with recordkeeping.

Responses to the questions posed by this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record.

Dated: June 27, 2000.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 00–17007 Filed 7–5–00; 8:45 am]

BILLING CODE 4820–03–U

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service; Meeting

AGENCY: Department of Offices, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and time for the next meeting and the provisional agenda for consideration by the Committee.

DATES: The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Friday, July 21, 2000 at 9 a.m. at 740 15th Street, NW., Suite 700, Washington, DC. The duration of the meeting will be approximately three hours.

FOR FURTHER INFORMATION CONTACT: John P. Simpson, Deputy Assistant Secretary, Office of Regulatory, Tariff and Trade, Office of the Under Secretary (Enforcement), Room 4308, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220 (ATTN: COAC)—Tel.: (202) 622–0230. Final meeting details, including the meeting time, location, and agency, can be confirmed by contacting the above number one week prior to the meeting date.

AGENDA: At the July 21, 2000 session, a special meeting of the Advisory Committee, the Committee is expected to pursue the following agenda. The agenda may be modified prior to the meeting.

1. Report on Customs Budget for Fiscal Years 2001 and 2002
2. Report from Subcommittee on Merchandise Processing Fee
3. Discussion of the Full Implementation of Mod Act of 1993
4. Brief Update from the Office of Regulations & Rulings Subcommittee
5. Interface Discussion
6. Discussion of the 24/7 U.S. Customs Service at Land Borders

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members and Customs and Treasury Department staff. A person other than an Advisory Committee member who wishes to attend the meeting should give advance notice by contacting Theresa Manning at (202) 622–0220 or Helen Belt at (202) 622–0230, no later than July 13, 2000.

Dated: June 28, 2000.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).

[FR Doc. 00–16968 Filed 7–5–00; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8830

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8830, Enhanced Oil Recovery Credit.

DATES: Written comments should be received on or before September 5, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Enhanced Oil Recovery Credit.

OMB Number: 1545–1282.

Form Number: 8830.

Abstract: Internal Revenue Code section 43 allows taxpayers to elect a tax credit of 15% of the qualified oil recovery costs paid or incurred during the year. The credit is phased out as the reference price of crude oil for the prior year exceeds $28 per barrel. Form 8830 is used by taxpayers to compute the credit.

Current Actions: The order of Part II, Tax Liability Limit, was revised for this form. Section 501 of Public Law 106–170 extended the provision that allows individuals to offset the regular tax liability in full for personal credits. Previously filers were allowed to claim credits to the extent that the regular tax liability exceeded the tentative minimum tax. For tax years beginning in 2000 and 2001, personal nonrefundable credits may offset both the regular tax and the minimum tax. Also, the computation was changed in Part II to reflect and to conform to changes that were made to the tax computation on Form 1040. A new line 7 was added to show the sum of the regular tax before credits and the alternative minimum tax.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Estimated Number of Respondents: 3,623.

Estimated Time Per Response: 9 hours, 2 minutes.

Estimated Total Annual Burden Hours: 32,752.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 28, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–16970 Filed 7–5–00; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 3468

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3468, Investment Credit.

DATES: Written comments should be received on or before September 5, 2000 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Investment Credit.

OMB Number: 1545–0155.

Form Number: 3468.

Abstract: Taxpayers are allowed a credit against their income taxes for certain expenses they incur for their trades or businesses. Form 3468 is used to compute this investment tax credit. The information collected is used by the IRS to verify that the credit has been correctly computed.

Current Actions: The order of Part II, Tax Liability Limit, was revised for this form. Section 501 of Public Law 106-170 extended the provision that allows individuals to offset the regular tax liability in full for personal credits. Previously filers were allowed to claim credits to the extent that the regular tax liability exceeded the tentative minimum tax. For tax years beginning in 2000 and 2001, personal nonrefundable credits may offset both the regular tax and the minimum tax. Also, the computation was changed in Part II to reflect and to conform to changes that were made to the tax computation on Form 1040. A new line 8 was added to show the sum of the regular tax before credits and the alternative minimum tax.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, farms, and not-for-profit institutions.

Estimated Number of Respondents: 22,573.

Estimated Time Per Response: 20 hours, 26 minutes.

Estimated Total Annual Burden Hours: 461,392.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 28, 2000.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 00–16971 Filed 7–5–00; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 65, No. 130

Thursday, July 6, 2000

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 LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0209–2000]

Proposed Information Collection Request Submitted for Public Comment and Recommendations; OSHA Data Initiative (1218–0209)

Correction

In notice document 00–16345, appearing on page 39944, in the issue of Wednesday, June 28, 2000, make the following correction:

On page 39944, in the second column, above the **SUPPLEMENTARY INFORMATION** heading, the web address should read ''http://www.osha-slc.gov/OCIS/Info_coll.html''.

[FR Doc. C0–16345 Filed 7–5–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99-AEA-16.FR]

Amendment to Class E Airspace: Brownsville, PA

Correction

In rule document 00–1053 appearing on page 2539 in the issue of Tuesday, January 18, 2000, make the following correction:

§71.1 [Corrected]

In the third column, after the row of stars, and before the paragraph beginning ''That airspace extending. . .. '', insert the following:

AEA PA E5,Brownsville, PA

Brownsville Hospital Heliport, PA

(lat. 400013.11, long. 795141.97

[FR Doc. C0–1053 Filed 7–5–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
July 6, 2000

Part II

Department of Agriculture

Food and Nutrition Service

7 CFR Parts 272 and 273

Food Stamp Program: Recipient Claim Establishment and Collection Standards; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 389]

RIN 0584–AB88

Food Stamp Program: Recipient Claim Establishment and Collection Standards

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: Food stamp recipient claims are established and collected against households that receive more benefits than they are entitled to receive. At the Food and Nutrition Service, we are revising Food Stamp Program regulations that cover food stamp recipient claims. This rule aims to improve claims management in the Food Stamp Program while providing State agencies with increased flexibility in their efforts to increase claims collection. We incorporate into this rule the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that affect recipient claims. In addition, this action is consistent with the President's regulatory reform effort.

The last major revision to the Food Stamp recipient claim regulations was in 1983. Recent legislation, technological advances and changes in Federal debt management procedures have made many parts obsolete.

This rule accomplishes several specific objectives while updating the Food Stamp recipient claims regulations. First, it incorporates changes mandated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Second, the presentation of our policies, and, in some cases, the policies themselves are streamlined by this rule. Third, this action incorporates Federal debt management regulations and statutory revisions into recipient claim management. Finally, this rule provides State agencies with additional tools to facilitate the establishment, collection and disposition of recipient claims.

DATES: Sections 273.18(c)(1)(ii)(B), 273.18(f) and 273.18(g) are effective retroactive to August 22, 1996. The remaining amendments of this rule are effective and must be implemented no later than August 1, 2000.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Chief, State Administration Branch, Program Accountability Division, Food Stamp Program, Food and Nutrition Service (FNS), 3101 Park Center Drive, Room 820, Alexandria, Virginia 22302, telephone (703) 305–2414.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This final rule has been determined to be economically significant and was reviewed by the Office of Management and Budget under Executive Order 12866.

Public Law 104–4

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

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The Food Stamp Program (FSP) is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR part 3015, Subpart V, and related Notice (48 FR 29115), this program is excluded from the scope of Executive Order 12372 that requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Shirley R. Watkins, Under Secretary for Food, Nutrition and Consumer Services, has certified that this rule will not have a significant impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have a preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the ''Dates'' section of this preamble. Prior to any judicial challenge to the provisions of this rule or the applications of its provisions, all applicable administrative procedures must be exhausted.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have ''federalism implications,'' agencies are directed to provide a statement for inclusion in the preamble of the regulation describing the agency's considerations in terms of the three categories called for under section (6)(a)(B) of Executive Order 13132:

Prior Consultation With State Officials

Prior to drafting this final rule, we received input from State and local agencies at various times. Since the FSP is a State administered, federally funded program, our regional offices have informal and formal discussions with State and local officials on an ongoing basis regarding program implementation and performance. This arrangement allows State and local agencies to provide feedback that forms the basis for many discretionary decisions in this and other FSP rules. In addition, we presented our ideas and received feedback on current and future claims policy at various regional, State, and professional conferences. Lastly, the comments on the draft rule received from State and local officials were carefully considered in the drafting of this final rule.

Nature of Concerns and the Need To Issue This Rule

State and local agencies generally want greater flexibility in their management of recipient claims. To maximize efficiency, a State agency usually tries to integrate, to the fullest extent possible, its food stamp recipient claims process with claims operations for similar programs. State and local officials have indicated that imposing requirements unique only to food stamp claims hampers this consolidation of effort, thereby leading to inefficiencies.

Extensive prescriptive regulations already exist for food stamp recipient

claims. We must change these regulations to address the concerns of State and local officials. Addressing these concerns is a primary objective of this rule.

Extent to Which We Meet These Concerns

We believe that we adequately address the issue of State flexibility in this final rule. When discretion is allowed and where appropriate, we specifically provide State agencies with the opportunity to develop and use their own procedures to manage recipient claims. In addition, we are also willing to approve a waiver of any discretionary provision in this rule where a State can demonstrate that its own procedure would be more effective and efficient, providing such a waiver would not result in a material impairment of any statutory or regulatory rights of participants or potential participants and would otherwise be consistent with the waiver authority set out at 7 CFR 272.3(c).

Regulatory Impact Analysis

Need for Action

This action is needed to: (1) Implement changes in food stamp recipient claims mandated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, (PRWORA); (2) incorporate Federal debt management regulations and statutory revisions into recipient claim management; (3) provide State agencies with additional tools for establishing, collecting and disposing of recipient claims; and (4) streamline policies and procedures where appropriate.

Benefits

The Federal government and State agencies are the beneficiaries from the provisions in this rule. The Federal government will benefit from increased recipient claims collections brought about by additional collection tools. In addition to the added retention amounts rendered through these increased collections, State agencies will also benefit by the streamlined requirements and procedures in this rule.

Costs

The increased collections brought about by this rule will reduce Program costs by $392.5 million for the five year period fiscal year 2001 through fiscal year 2005.

II. Paperwork Reduction Act

The information collection requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB Nos. 0584–0069, 0584–0446 and 0584–0492.

Reporting and Record Keeping Burdens

FNS–209 Report (OMB No. 0584–0069)

Claim activity is reported by State agencies on the Status of Claims Against Households (FNS–209) report. The OMB approved the information collection requirements for completing and submitting the FNS–209 report under OMB Control Number 0584–0069. This rule makes some changes to the form and reporting requirements. A revised form FNS–209 and a burden estimate will be submitted to OMB under the currently approved OMB Control Number 0584–0069.

Federal Collection Methods for Food Stamp Program Recipient Claims (0584–0446)

The information collection burden for Federal collections of recipient claims is covered under OMB Control Number 0584–0446. This rule makes some changes to those requirements. An estimate of the revised burden associated with this collection has already been approved by OMB.

Repayment Demand and Program Disqualification (0584–0492)

The burden associated with providing notice and demand for payment to households has been approved under OMB Control Number 0584–0492. This rule does not change this burden.

Recipient Claims and Other Reporting Forms Consolidation and Redesign

The proposed rule contained a 60-day notice proposing to combine and consolidate the FNS–209 with a number of other reports. The purpose of this proposal is to reduce the number of reports and data elements to be reported.

We have suspended all work on this project. Other Federal and State priorities (especially Year 2000 changes) have taken precedence. In addition, postponing this project provides us with an opportunity to further assess our data needs and requirements. We will reannounce our forms consolidation proposal with a new 60-day notice when appropriate. All comments received for the 60-day notice included in the May 28, 1998, proposed rule will be taken into account at that time.

III. Background

A. General

Purpose of Rule

This rule creates new standards for establishing and collecting food stamp recipient claims. We aim to strike the optimal balance among various competing goals including program integrity, fiscal accountability, practical claim management, and the rights of individuals and households. We believe that this rule achieves this goal.

Plain Language Changes

President Clinton's memorandum of June 1, 1998, requires us to write new regulations in plain language. This final rule conforms to this requirement. As a result, the formatting and wording used in the regulatory text of this rule differs from the format and text in the proposed rule. However, unless specifically addressed in the comment discussion below, the changes are only in the presentation of the material and not to the actual requirements. We believe the result is a regulation that is both easier to read and understand.

Overview of Food Stamp Recipient Claims

The claims environment

Households receiving overpayments or misusing food stamp benefits undermine the integrity of the FSP. Individual overpayments are relatively small, usually under $500. However, we estimate that, in fiscal year 1998, over $1.4 billion in benefits were overpaid in the aggregate. The efficient and effective establishment and collection of recipient claims to collect these overpayments is essential to program integrity. Nearly 720,000 claims were established in fiscal year 1999 totaling over $307 million.

Although State agencies administer the FSP and collect overpayments, these benefits are federally funded and claims established from overpayments are Federal debts. This unique arrangement is the reason why we need extensive regulations in this area. A strict application of the standard federal collection rules is not the best solution for recipient claim debt management. The reason for this is two-fold. First, the Food Stamp Act of 1977, 7 U.S.C. 2011–2032, (FSA), which governs the FSP, contains certain collection provisions and household protections that are not included in other Federal laws. Second, we must accommodate State agencies in their efforts to operate their respective claims operations as efficiently as possible. A State agency usually tries to integrate its food stamp recipient claims process with claims operations for similar programs such as Temporary Assistance for Needy Families (TANF). To accomplish this, we need to afford State agencies a certain degree of flexibility while maintaining enough

control to ensure effective claims management.

Claim Types and Establishing Claims

A recipient claim falls into one of three categories:

1. Intentional program violation (IPV) claim—This is a claim that is established because the overpayment was caused by fraudulent activity by the household. State agencies are currently able to retain 35 percent of what they collect for this type of claim.

2. Inadvertent household error (IHE) claim—This is a claim that is established if the overpayment was caused by the household unintentionally violating program rules. State agencies are able to retain 20 percent of what they collect for this type of claim. They retain a somewhat higher amount, 35 percent, if the collection is through unemployment compensation benefit intercept.

3. Agency error (AE) claim—This is a claim that is established because the overpayment was caused by a mistake on the part of the State or local agency. State agencies receive no retention for collecting this type of claim.

State agencies establish a claim by documenting the amount and reason for the overpayment, and issuing a demand letter to the household. Nationwide, claims establishment for fiscal year 1999 includes:

	IPV claim	IHE claim	AE claim	Total
Established				
Number	40,712	441,941	237,298	719,951
Amount	$41.1 million	$212.8 million	$53.9 million	$307.8 million
Avg. claim established	$1,010	$481	$227	$427

Collecting Claims

State agencies use various methods to collect claims. The two primary methods are allotment reduction and the Federal debt collection programs such as the Treasury Offset Program:

1. Allotment Reduction—This is when the household's benefits are reduced each month to collect the claim. Allotment reduction is the primary collection method for households that continue to participate in the FSP.

2. Federal Treasury Offset Program (TOP)—State agencies refer delinquent claims to TOP. This is the most effective collection method for households that no longer participate in the FSP. TOP intercepts federal payments that are to be made to individuals. The sources for these offsets vary but currently they are primarily from Federal income tax refunds and Federal salaries.

3. Other Methods—These include, but are not limited to, lump sum and installment payments, wage garnishments, unemployment compensation benefit intercepts, and state income tax refund and lottery winnings.

This is a breakout by the method of collection for fiscal year 1999:

	Allotment reduction	TOP	Other methods	Total
Amount collected	$83.6 million	$85.1 million	$44.3 million	$213.0 million

Of these amounts collected, State agencies retained about $22.7 million for IPV collections and about $22.0 million for collecting IHE claims.

Welfare Reform

PRWORA amended the FSA in a number of ways. This rule implements the provisions of PRWORA relating to recipient claims. The specific provisions were originally addressed in the proposed rule. We received comments on the implementation of a number of these provisions and these comments are addressed in the following section of this preamble.

B. Comment Discussion

Publication of Proposed Rule and Comments

We published the proposed rule, *Food Stamp Recipient Claim Establishment and Collection Standards,* on May 28, 1998, at 63 FR 29303. A total of 96 comment letters were received on this rule. The letters were from 5 recipient interest groups, 3 governmental associations, 40 State agencies, 46 local agencies (43 from 1 State), and 2 non-FNS Federal agencies. The responses contained 494 separate comments. We thank you for your comments and interest. The final rule is a better rule because of your recommendations. We separated the comments by category and discuss them below.

Recipient Claims as Federal Debts

Food Stamp recipient claims are State-administered Federal claims. We included in the proposed rule that these debts are subject only to this and other federal regulations governing Federal debts. We received one comment on this provision in the proposed rule:

Does this new language in the rule restrict a State agency's ability to manage claims?

One State agency was concerned that the language specifying that recipient claims are Federal debts is too strong and restricts State agencies from performing claims establishment and collection more efficiently. It is a legal fact that these claims are Federal debt and, as such, they are subject to certain requirements. However, State agencies may benefit from this Federal claim status. For example, our intention with this provision is to make clear that food stamp recipient claims are included in many of the collection authorities and methods available for other Federal claims. We do not intend to stifle State agency flexibility. To make this clear, we will revise the provision by removing the word ''only'' to allow this flexibility. (See § 273.18(a)(i)(2)). We also want to remind State agencies that waivers to these regulations are available and may be requested. We will readily approve waivers that serve the best interest of the FSP by increasing efficiency and effectiveness in claims management. Of course, we cannot approve requests that compromise the statutory or regulatory rights of households or are specifically prohibited by the FSA.

Intentional Program Violations

An intentional Program violation (IPV) exists when a person is found to have intentionally violated program rules. A different section of our regulations (7 CFR 273.16) covers how IPVs are determined. We call any resulting claim an IPV claim. In the

proposed rule, a claim is handled as an IPV claim if one of the following occurs:

(1) A court determines that a household member committed an IPV;

(2) A household member is determined at an administrative disqualification hearing (ADH) to have committed an IPV;

(3) A household member signs a disqualification consent agreement for a suspected IPV referred for prosecution; or

(4) A household member signs a waiver of his/her right to an ADH.

One change that we made in the proposed rule (§ 273.18(c) at 63 FR 29325) is to make it optional for State agencies to establish a suspected IPV claim as an inadvertent household error (IHE) claim. We made this proposal to increase flexibility in this area.

The public submitted several comments on IPV claims:

Should we provide additional criteria to determine what claims should be pursued as IPV claims?

One State agency commented that we should provide additional criteria to determine what other occurrences could be pursued as IPV claims. Another State agency recommended that we recognize hearing formats unique to a particular State agency as acceptable for determining an IPV and the resulting IPV claim.

These comments have merit. However, the recommendations deal more with IPV determinations rather than establishing IPV claims. An IPV claim comes from an IPV. It is the finding of IPV itself that determines whether the claim should be pursued as an IPV claim. To come up with additional criteria, we need to address IPV pursuit and determination rather than IPV claim determination. The requirements for actual pursuit and determination of IPVs are not addressed in the proposed rule or in the regulations affected by this rule. Therefore, we will defer these comments until we propose changes to the section of our regulations (7 CFR 273.16) that covers IPV pursuit and determination.

Do we need to add an additional method for determining an IPV?

One State agency recommended that we add an additional method for determining an IPV and the resulting IPV claim. The State agency requested that a claim be considered an IPV when a client enters into a plea bargain or similar negotiations to avoid being adjudicated as guilty, but agrees to pay the debt without admitting guilt.

This situation is already included as an IPV in our current regulations. State agencies already have the ability to use methods described by the commenter to determine IPVs and establish IPV claims under the paragraph on deferred adjudication at 7 CFR 273.16(h) in our current regulations. Therefore, an additional method for IPV determination is not necessary.

Should we have a sub-category for a suspected IPV?

Instead of providing the option to establish a pending IPV claim as an IHE claim, one State agency recommended that we create a separate sub-category for pending IPV claims. The State agency believes that this would alleviate problems associated with establishing a claim prior to prosecution. The State agency's point is valid and the suggestion is good. However, we decided to take a different approach to resolve issues relating to the claim referral and establishment process. As a result, the final rule does not include many of the claim management requirements found in the proposed rule. In the final rule at § 273.18(d), State agencies may develop their own claim management plan to deal with suspected IPVs (as well as other issues). The *Claim Referral and Establishment* section of this preamble provides a more detailed discussion of this matter.

Why not retain the personal contact requirement when an IPV is established?

Our current policy at 7 CFR 273.18(d)(2) states that, if possible, a personal contact shall be made with the household when beginning collection action on an IPV claim. We eliminated this requirement in the proposed rule. Two recipient interest groups believe that we should retain this requirement. The commenters believe that this rule is beneficial to households by insuring that recipients have time to plan for imminent collection activity, and reduce the likelihood that such collection activity is taken in error.

We disagree with the commenters' assertion that this provision provides added benefits to the household. The household affected by an IPV claim has ample opportunity during the hearing and demand letter process to discuss the overpayment as well as future collection action. The retention of this provision is not necessary and therefore is not included in the final rule.

Calculating the Amount of the Claim

The proposed rule goes into detail on how to calculate a claim caused by an overpayment. The final rule at § 273.18(c) provides this information in a user-friendly table. We received several comments on calculating claim amounts:

Should any underpayments be applied to reduce an overpayment when determining the amount of a claim?

One recipient interest group recommended that all household circumstances should be included when establishing a claim. This includes applying any underpayment occurring because of the change in household circumstances against the overissuance with the difference being the claim. The commenter further believes that fairness dictates that this should be done even for periods beyond those for which an underpayment can be restored. The limit for the restoration of benefits is currently one year prior to when the State agency discovers the underpayment.

We believe that the proposed and final rule adequately cover this situation. When a claim is calculated, the State agency determines the correct amount of food stamp benefits for the months in question. This covers circumstances directly relating to the cause of the claim that cause underpayments as well as overpayments. For example, assume an additional household member with earned income joins the household. In this case, the additional income would cause an overpayment. Conversely, an additional household member with no income would cause an underpayment. The additional income would be offset (to some extent) by the larger household size in determining the amount of the claim. For periods in which there are net monthly underpayments, they may be offset against any resulting claim.

The only situation that is not covered by the final rule is when the underpayment happened more than one year before the State agency learned about it. In this instance, the State agency may not use the underpayment to offset an overpayment when calculating a claim. While we recognize that this may not appear fair to the household, this is the law. Section 11(e)(11) of the FSA (7 U.S.C. 2020(e)(11)) does not allow restoring benefits that are greater than one year old.

We want to make one final point regarding claims calculation. When calculating a claim, a State agency is expected to only use new data that it becomes aware of due to circumstances regarding the claim. A State agency is not required to re-verify all factors pertaining to the household.

Why are we not allowing the earned income deduction when calculating IHE claims?

We proposed to not allow the 20 percent earned income deduction to that part of any earned income that the household failed to report timely. One State agency objected to this proposed policy change. The commenter argued that, since the household inadvertently made the mistake, we should not further penalize the household. The State agency also argued that our proposal would conflict with its TANF policy. While the commenter does make some valid points, we have no choice in this matter. This rule change is set by legislation. Section 809 of the PRWORA, by amending section 5 of the FSA (7 U.S.C. 2014), specifically prohibits the inclusion of the 20 percent earned income deduction for these types of claims. As a result, this provision remains as proposed in the final rule. (See § 273.18(c)(1)(ii)).

Claims for Recipient Trafficking

The proposed rule would provide State agencies with the authority to establish recipient claims for trafficking. The public submitted 41 comments on this proposal. State and local agencies generally supported this proposal with some agencies expressing minor concerns or requesting clarifications. However, several recipient interest groups, along with a few State agencies, questioned the legality as well as the propriety of this proposal.

Are trafficking claims legal and appropriate?

Five commenters disagreed with our assertion in the proposed rule that the FSA allows us to authorize State agencies to establish claims for trafficking. The commenters contend that the FSA only provides for claims due to an actual overpayment and that we have no authority to develop new principles for when a debt is owed. We concur with the commenters that, generally, an overpayment occurs when a household receives more benefits than the household is entitled to receive. However, we still believe that we are able to extend claim establishment authority to instances of trafficking and benefit misuse. Section 13(a)(1) of the FSA (7 U.S.C. 2022(a)(1)) allows us to provide State agencies with '' * * * the power to determine the amount of * * * any claim * * * including, *but not limited to,* claims arising from * * * overissuances to recipients * * * (emphasis added).'' The ''not limited to'' language shows that Congress did not intend to specifically limit this authority to overpayments caused by certification and issuance errors. Moreover, Congress directed us to issue such regulations as are necessary or appropriate for the effective and efficient administration of the FSP so long as the regulations are consistent with the FSA, 7 U.S.C. 20139(c). Since the misuse of FSP benefits is clearly inconsistent with the purposes of the Program, and the establishment of claims can deter the misuse of benefits and allow for recovery of such benefits, we believe the establishment of claims for trafficking against recipients is within our authority. Considering this, our proposed provision is authorized by the FSA and therefore remains in this final rule.

Why are all household members, and not just the trafficker, responsible for paying a trafficking claim?

The proposed policy states that all adult household members are jointly and separately responsible for the payment of claims. One commenter remarked that only the trafficker should be responsible for a trafficking claim rather than all adult household members. The commenter points out that each adult in a household cannot reasonably be expected to be present or even aware each time someone in the household transacts the benefits. Therefore, according to the commenter, a responsible adult household member would often have no means of being aware of, much less preventing, the trafficking. While this is a valid point in some cases, we believe that, in most instances, responsible household members are able to control the use of their benefits. First, when the State agency initially issues the electronic benefits transfer (EBT) card, a household undergoes an orientation or receives written training materials on the proper uses of the card. Second, we have no reason to believe that responsible household members are not savvy enough to recognize when the benefits are not properly being used. Finally, EBT cards contain personal identification numbers to specifically limit who has access to benefits. For these reasons, we believe that it is appropriate to hold all adult household members jointly and severally liable for a trafficking claim.

Should a State agency set up a claim against the household when a household member did not conduct the improper transaction?

Two commenters assert that trafficking claims may be inappropriate because EBT transaction printouts (that form the basis for most of the EBT-related claims) do not identify who actually used the EBT card in the improper transaction. As an example, the commenters state that a disabled or temporarily incapacitated person may ask a friend, neighbor, or family member to purchase food. The disabled person would have no way of controlling what these ''helpers'' do with the benefits. In general, recipients are responsible for preventing benefit misuse by others. However, we agree with the commenters that these instances may in fact occur. Where good cause, such as the household being taken advantage of by an authorized representative, can be established then there should be no trafficking claim. The State agency may then, with the household's assistance, pursue the trafficking violation against the individual who inappropriately used the household's benefits. (See § 273.18(a)(4)(iii).)

Shouldn't this proposal be used only for more serious forms of trafficking?

One State agency commented that the proposal is too severe and it should only be used for some instances of trafficking. The commenter continues by stating that an otherwise responsible household may try to redeem benefits for other than food items due to some emergency. While we recognize that some forms of trafficking may be less objectionable than others, we still must disagree with this comment. With rare exception, the FSA (7 U.S.C. 2013(a)) and longstanding policy is clear in not allowing FSP benefits to be used for anything other than food. Compromising on this policy in this instance would undermine the basis for the FSP itself.

How will this proposal deter trafficking?

One recipient interest group commented that implementing this proposal is unlikely to deter future traffickers. The commenter's reasoning is that the increase in the penalty that this rule would make is quite small in comparison to the other penalties that already exist for trafficking. Existing penalties include program disqualification and, for more grievous offenses, fines and imprisonment. According to the commenter, adding this relatively small penalty with these larger penalties already in place, will have no effect to deter future trafficking. We would first point out that the proposal was not intended to establish a penalty but to authorize claims to recover the value of misused benefits, which could also have a deterrent effect. While we are unable to estimate the magnitude of this deterrent effect, at a minimum, authorizing claims for

trafficking allows us to recover misused FSP benefits. Furthermore, our proposal is an integral part of a comprehensive effort to deter trafficking and, as such, this approach, including all of the applicable penalties, must be looked upon in its entirety. For this reason, the proposal will remain in the final rule.

Why establish a recipient claim when the retailer, rather than the household, ''profits'' from a trafficking transaction?

One State agency strongly objected to this proposal because it believes that it is the retailer, and not the recipient, that profits from a trafficking transaction. The retailer profits by providing cash at a discounted rate (usually 50–60 percent) for benefits. As a result, the household almost certainly realizes a reduced value from the benefits. The commenter believes that, since the transaction benefits the retailer, it is the retailer, rather than the household that should bear more of the burden for this responsibility.

Trafficking requires both a retailer and a recipient. Severe penalties are already in place for retailers and we are constantly looking for ways, both legislatively and administratively, to further strengthen our efforts against irresponsible retailers. Until now, program disqualifications have been the only recourse against recipients who traffick. We believe that this is not enough. Authorizing State agencies to establish a claim against recipient traffickers provides an additional disincentive for those recipients who do, in fact, traffick.

We also disagree with the commenter's contention that State agencies should not additionally punish recipients because they are not ''profiting'' from trafficking transactions. We concur with the commenter that a trafficking household is making an unprofitable transaction from a purely financial point of view. However, whether the trafficking household actually ''profits'' should not be an issue. Fraud and abuse that threatens program integrity is the basis for this provision. Evidently, in their view, recipients profit from these transactions since it provides them with additional cash or material goods.

Can collections be made against both the retailer and the household for the same amount trafficked?

In the preamble to the proposed rule (63 FR 29307) we addressed the fact that there is no correlation between retailer fines and recipient trafficking claims. Retailer fines provide for monetary penalties significantly larger than the amount trafficked. In these instances both the retailer fine and recipient claim can be independently collected with no coordination necessary between the two categories of debt. However, in addition to these larger penalties, we are moving towards administratively establishing claims against retailers for the amount trafficked. Since both this action and recipient trafficking claims directly correspond to the amount trafficked, we must take into account the False Claims Act (31 U.S.C. 3729–3731). The False Claim Act (31 U.S.C. 3729–3731) does not allow a collection to exceed the total amount lost. We are currently looking at ways to make it administratively feasible to collect from both the recipient and the retailer while ensuring that total collections will not exceed total amount lost. For the purposes of this rule, however, no change is necessary.

Can this provision result in a household actually owing more than the household is issued?

Two commenters stated that this proposal may result in households owing more benefits than were actually issued. This would occur when a household receives an overissuance and then trafficks those benefits. In this scenario, the household would essentially repay double the original benefit issued. We agree with the commenter that this is possible. However, we do not believe that this warrants not allowing recipient trafficking claims in these instances. Trafficking is independent of the issuance or certification process and therefore any corresponding claims assessed by the State agency are unrelated. In addition, we have a longstanding policy that an individual may receive more than one IPV for violating two or more unrelated program rules (such as change reporting and trafficking) during the same time period. This same policy is being extended to recipient trafficking claims.

Is this proposal considered an unfunded mandate and will additional funding be made available?

We received seven comments on the added workload imposed by this proposal and whether additional funding or training will be made available. Three commenters consider this proposal an unfunded mandate. Two commenters added that the pursuit of traffickers should be solely a federal responsibility.

The purpose of this proposal is to supplement our existing policy regarding the pursuit of recipient trafficking. State agencies have always been required to pursue any IPV, including recipient trafficking. This is *not* new policy and this rule is *not* introducing new policy regarding additional IPV pursuit. Therefore, this is not an unfunded mandate. The purpose of this proposal is simply to authorize State agencies to establish claims against traffickers that are already being pursued. In many of these instances, the amount trafficked has already been determined. As such, the added costs to establish these claims are minimal.

Establishing claims for trafficking allows State agencies to recover more of the costs associated with the pursuit of fraud. Currently, when a State agency pursues an IPV against a trafficker, the agency receives nothing more than the normal administrative match. Pursuing claims against these traffickers allows the State agency to retain 35 percent of collections for IPVs with minimal additional establishment costs.

As discussed above, the pursuit, prosecution and determination of IPV against recipients who traffic is not new policy. However, we do recognize that, with the advent of EBT (that provides States with the ability to identify potential traffickers), this is a relatively new area for some State agencies. We also recognize that, since this is a new area, some State agencies may be pressed to allocate additional resources. Because of these concerns, we are taking the opportunity in this preamble to address this issue. Obviously, State agencies are not expected to ''catch'' and subsequently pursue every single questionable EBT transaction. However, State agencies are to pursue potential recipient trafficking incidents referred by us. In addition, while a State may pursue any other trafficking offense, State agencies should prioritize their efforts and concentrate on those trafficking incidents that are more egregious. These include those of a repeated nature that contain high dollar amounts. In addition, States should also concentrate their efforts on incidents that include trafficking for controlled substances, firearms and similar. States agencies are encouraged to set pursuit and prosecutorial standards and dollar thresholds to ensure that their recipient trafficking program is targeted towards these areas. This will result in enhanced program integrity as well as a recipient trafficking pursuit process that is both effective and efficient.

What is considered trafficking?

Three commenters requested clarification on what specifically is considered trafficking. To accommodate this request, we will cross reference the text in this final rule at § 273.18(a)(1)(ii)

with our standard definition found in 7 CFR 271.2 of our regulations.

How should we, as State agencies, calculate trafficking claims?

The proposed rule stated that the amount of a trafficking claim would be the value of the trafficked benefits as determined by the individual's admission, adjudication, or the documentation that forms the basis for the trafficking determination.

One State agency asked whether the claim would be the amount of food stamp benefits that the client expended in the trafficking transaction or the amount of cash the individual realized as a result of the trafficking transaction. The claim would always be for the amount of the food stamp benefits since that was the amount of benefits lost because of the illegal transaction.

Are EBT documentation records sufficient for determining the amount of the claim?

We received one comment stating that EBT transaction records are not sufficient to determine the amount of the claim. In addition, two State agencies commented that, since many times we alert the State agency of the trafficking offense, we should also develop the information to document the fact of trafficking and the claim amount. We disagree that this is a Federal responsibility. Although, at times, we will provide State agencies a good deal of information on specific recipient trafficking incidents, several State agencies have pointed out in comments and at public forums that EBT transaction documentation is a clear indicator of the amount trafficked. These agencies further emphasize that they can easily convert these amounts into the corresponding claim. We are always willing to provide technical assistance upon request to State agencies in this area.

Should we have an inadvertent benefit misuse (Non-IPV trafficking) claim?

The proposed rule includes a provision that allows State agencies to establish ''inadvertent'' benefit misuse claims against households. State agencies may use this authority in trafficking situations that do not warrant IPV determinations. Three commenters requested more clarification and guidance for this proposal. One commenter disagreed with this proposal and contended that any misuse of benefits is intentional.

The provision was originally proposed to maximize State agency flexibility in this area. However, upon further examination, we do not believe that it is appropriate for State agencies to establish a benefit misuse claim against those households that have not been found to have trafficked. Our purpose in authorizing this type of claim is to deter trafficking. Allowing ''inadvertent benefit misuse'' claims for unintentional offenses does little to contribute to this goal. Therefore, the final rule does not authorize a State agency to establish a benefit misuse or trafficking claim against a household unless there is an actual determination of IPV. (See § 273.18(a)).

Claim Referral and Establishment

We proposed many changes to improve the management and establishment of claim referrals. A claim referral is the identification of a potential overpayment that needs to be investigated and established as a claim. The current regulations provide no guidance on managing suspected overpayments and claim referrals. As a result, some State agencies were either not establishing claims or they were not developing or enforcing internal time frames, thereby causing a backlog of claim referrals. When a backlog exists, claims are not timely established. Claims that are established timely stand a better chance of being collected.

To address this situation, we proposed standards for claim establishment. The proposed standards included the following:

(1) Defining the discovery and establishment dates for claims;

(2) Requiring the tracking of claim referrals;

(3) Establishing the end of the quarter following the quarter of discovery as the time frame for claim establishment; and

(4) Defining that a backlog exists when over 10 percent of referrals do not meet the establishment time frame.

We received 129 comments from 77 commenters on this proposal. Only four comments supported some aspect of our proposal. The remaining 125 comments generally indicated that we are interfering too much with State-specific processes. These processes are unique and cross program and organizational boundaries. Changing these procedures and processes to conform to our specific rules would cause inefficiencies within State agencies that would be contrary to the spirit of this rule.

Our primary purpose in proposing these changes was to improve claim referral management. However, the comments received clearly show that flexibility is needed in this area. Therefore, in the final rule, we include an optional provision to improve claim referral management that addresses this need for flexibility. This new procedure reflects the collective view of the comments that State agencies can better manage claim referrals if States have latitude to tailor the management of claims establishment and collection to local situations.

The final rule retains the proposed standard for establishing claims. However, in lieu of using this standard, we are allowing State agencies to develop and follow their own standards and procedures subject to our approval (see § 273.18(d)). At a minimum, this procedure, known as a State claim referral management plan, must include the following:

State Claim Referral Management Plan Minimum Requirements

(1) Justification as to why your standards and procedures will be more efficient and effective than our claim referral standard.

(2) Procedures for the detection and referral of potential overpayments or trafficking violations.

(3) Time frames and procedures for tracking regular claim referrals through date of discovery to date of establishment.

(4) A description of the process to ensure that these time frames will be met.

(5) Any special procedures and time frames for IPV claim referrals.

(6) A procedure to track and follow-up on IPV claim referrals when they are referred for prosecutorial or similar action.

This plan will be subject to our approval. We will approve any plan that demonstrates that procedures are in place to ensure that claim referrals are acted on in an effective and efficient manner. In addition, we will provide assistance to those State agencies who need help in developing a plan. A State agency will maintain maximum flexibility in this area, provided it is following its plan and managing claim referrals efficiently. We do reserve the right, however, to step in and impose requirements as part of a corrective action plan if a State agency is not performing this function in an efficient and effective manner.

Our goal, as described above, is to ensure efficient and effective claims referral management while maximizing State agency flexibility. Allowing State agencies to develop their own plan maximizes this flexibility. However, we need to ensure that the State agency's plan results in overall effective and efficient claims management. For this, we believe the best measure is claims collections. A high rate of collection is indicative of a high level of efficiency and effectiveness throughout the claims

process. We will therefore assess State agencies performance by comparing collections with overpayment rates in a State. State agencies whose collections are low compared to past and current national levels will be required to develop a corrective action plan to address any deficiencies. (See § 273.18(a)(3)).

Claims Threshold and Cost-Effectiveness Policy

A claims threshold is the overpayment dollar amount under which State agencies do not need to pursue a particular overpayment. We currently have a $35 claims threshold. This current threshold applies only to non-participating households with non-IPV overpayments. We proposed many changes in the May 28, 1998 rule:

PROPOSED THRESHOLD AND COST-EFFECTIVENESS DETERMINATION POLICY FOR STATE AGENCIES

You May Follow Your Own Cost Effectiveness Plan and		
opt not to establish any claim if . . .	Unless . . .	or . . .
you determine that the claim referral is not cost effective to pursue.	you do not have a cost-effectiveness plan approved by us.	you have already established the claim.
Or You May Follow the FNS Threshold and		
opt not to establish any claim if . . .	Unless . . .	or . . .
You determine that the claim referral is $125 or less.	the household is participating in the FSP	you have already established the claim.

We received 24 comments on this comprehensive proposal. Seven commenters specifically supported our proposal to allow State agencies to develop and use their own cost-effectiveness plan. We derived the following questions from the other comments:

Why not retain the original $35 FNS threshold for IHE claim referrals?

One State agency supported retaining the old $35 threshold for IHE claim referrals. As discussed in the proposed rule (63 FR 29308), we believe that the $35 benchmark is outdated and does not accurately reflect State establishment and collection costs. We continue to believe that the $35 benchmark needs to be updated. We are therefore retaining the proposed $125 threshold amount in the final rule. (See § 273.18(e)(2).) However, the use of this maximum threshold is optional. The final rule does not prevent any State agency from establishing any claim for an amount lower than the $125 threshold. In other words, the State agency submitting this comment is free to establish any claim, regardless of the amount.

Why do we extend the FNS threshold to include IPV claim referrals?

The proposed threshold included IPV referrals. Three commenters believe that the threshold should not include IPV referrals. They believe that it is inappropriate because the overissuance is caused by an individual intentionally breaking program rules. The severity of the offense, according to the commenters, dictates that a claim be established and pursued.

We recognize the commenters' concerns. However, we still believe that this policy should remain a State agency option. The goal of this rule is to maximize flexibility. Even though the overpayment was intentional, there may be instances in which it is in the best interest of the FSP for a State agency not to pursue the resulting IPV claim because of the relatively low dollar amount. This final rule retains this flexibility. (See § 273.18(e)(2).)

Should participating households be excluded from the FNS threshold?

The proposed rule excludes participating households from the threshold. The reasoning behind this is that these claims may be recovered by reducing the household's allotment. Six commenters believe this exclusion is unfair and impractical. It is unfair, according to the commenters, because the poorest households, those still participating in the Program, need to repay every overpayment. On the other hand, those not participating and generally more well-off, are not charged with repaying smaller overpayments. The commenters also argued that the proposal is impractical because of the dynamic nature of the FSP. Since households move on and off the FSP, State agencies are unable to accurately assess which households are actually no longer participating in the FSP.

We recognize the difficulties associated with limiting this threshold to non-participating households. However, allotment reduction is a readily available collection method for participating households. We believe that program integrity would suffer if a relatively large number of overpayments that are easily recoverable are routinely not pursued. In addition, the costs associated with allotment reduction are relatively small. Therefore, we are not extending the FNS threshold to include participating households. (See § 273.18(e)(2)). However, to maximize flexibility, we would consider appropriate a threshold for participating households that is lower than the threshold for non-participating households. State agencies may include such a two-tier threshold when it submits its own cost effectiveness plan for our approval.

Why don't we increase the amount of the FNS threshold to equal the highest amount allowed through waivers?

So far we have approved cost effectiveness waivers for up to $250 for non-participating households. One State agency recommended that we increase our FNS threshold from the proposed $125 to the highest amount ($250) currently approved through waivers. The commenter stated that a review of the currently approved waivers demonstrates that the $125 threshold is too low. We do recognize that a number of State agencies incur costs significantly above the $125 threshold. However, we purposely set this threshold lower to ensure that prudent claims management is maintained among those States that incur relatively low claim establishment and collection costs. States with higher costs are free to develop their own methodology. The $125 FNS threshold in the proposed rule remains. (See § 273.18(e)(2)).

What is meant by not applying the FNS threshold to already established claims?

In the proposed rule, the FNS threshold does not apply to already established claims. One State agency asked for clarification. The $125 FNS threshold covers the combined costs of establishing and collecting the claim.

The threshold no longer applies once the claim is established. Disposing of an already established claim because it is not cost effective to collect is discussed in the *Terminating Claims* section of this preamble.

Shouldn't the FNS threshold automatically increase with inflation?

The proposed FNS threshold is fixed at $125. One commenter recommended that the threshold automatically increase with inflation. The commenter makes a valid point. However, we are reluctant to include this in the final rule because we are unsure if we should tie claim establishment and collection costs directly to inflation. Advances in automation and the introduction of other efficiencies may actually bring down establishment and collection costs in the future. The threshold remains fixed in the final rule (See § 273.18(e)(2)).

Isn't the FNS threshold unfair to larger households?

Two commenters suggested that the claims threshold take into account both the monthly amount and duration of the overpayment. They felt it was unfair that a larger household can easily have an overpayment well over $125 in just one month, while a smaller household, that receives a smaller issuance, can have an overissuance that extends several months, but does not total over $125. The commenters felt that overpayments of short duration should not be pursued. The real problem is ongoing overpayments. The commenters suggested that a claim must both exceed $125 in total and represent overpayments continuing for more than three months.

We recognize that a larger household, on average, would have a larger claim than a smaller household. However, basing a threshold both on duration and amount systematically excludes large overpayments from collection and removes an incentive for households to report changes timely. We do not believe that this is good claims management. The rule remains unchanged.

Will having different thresholds for some State agencies result in unequal treatment for households?

State agencies have the option in the proposed rule to develop their own cost-effectiveness procedures. One commenter is concerned that this may result in unequal treatment to households across State lines. Unequal thresholds are certain to happen under this rule. However, State agencies have been working with different thresholds based on waivers for many years. Providing this flexibility provides State agencies with an important claims management tool. The fact that some will escape payment does not change the fact that all collections are from those who previously received overpayments. This proposal will remain in the final rule. (See § 273.18(e)(2)).

Will State agencies receive guidance to determine their own cost-effectiveness provisions?

Some State agencies requested technical assistance to develop their cost-effectiveness provisions. We are developing broad guidelines based on prior waiver submissions. You may contact your regional office to obtain these guidelines as well as to receive other technical assistance in this area.

What is meant by ''jurisdiction'' in the preamble of the proposed rule?

The preamble of the proposed rule (63 FR 29309) states that ''. . . no jurisdiction would be prevented from establishing and/or pursuing the collection of any claim that falls under the threshold.'' One State agency asked whether a ''jurisdiction'' meant a region, state or a county. The answer is State agency. However, our intent in this passage is not to dictate any further requirements or limitations. The intent is simply to provide that it is up to each State agency to decide how it wishes to use the threshold. We have no problem with State agencies delegating this authority to counties or other local agencies.

How can we be sure that any overissuance has a chance to be developed into a claim?

We are concerned that any claims threshold not create an incentive for households to obtain overpayments below the threshold with impunity. To address this concern, we include in the final rule the stipulation that a claim must be pursued for any overpayment discovered through the quality control system. This ensures the chance that any overpayment, regardless of size, may be subject to establishment and collection. (See § 273.18(e)(2)).

In summary, what changes regarding this proposal are incorporated into the final rule?

There is only one change in threshold and cost-effectiveness determination policy from the proposed rule. That change is that a claim must be pursued if the overpayment is discovered in a quality control review.

Notification of Claim

The proposed rule contains several new requirements regarding notification. These requirements affected either the food stamp application or the initial demand letter. We received 28 comments regarding the new and existing requirements.

Why must we add language to the application form concerning the use of the social security numbers to pursue claims?

Six State agencies and one recipient interest group commented that it is more appropriate to include this information in the demand letter rather than the application form. The recipient interest group commented that the language appeared intimidating and may actually discourage participation in the program.

The purpose of this language is not to be intimidating but rather to inform recipients how their social security number may be used. This notification is required by the Privacy Act of 1974 (5 U.S.C. 552a, note 2) and the Debt Collection Act of 1982 (31 U.S.C. 3716(a)). As a result, we have no choice but to include this notification in the final rule. However, we are simplifying the language to make it appear less intimidating. (See § 273.2(b)(4)).

One State agency asked why we include that claims ''may be referred * * * to the Department of Justice (DOJ) for litigation'' in the language to be included in the application form. We proposed to add this language because, since food stamp claims are Federal claims, they may, in fact, be referred to DOJ. However, because recipient claims are usually for relatively small amounts, referral to DOJ would be extremely rare. Therefore, we are not including this requirement in the final rule.

Does the household need to have actually received the notice for the notice requirements to have been met?

Three recipient interest groups and two State agencies submitted comments concerning whether the household actually needs to receive the notice. The State agencies requested clarification as we do not address this specific area in the proposed rule. The recipient groups want to ensure that the household does, in fact, receive the notice. These comments are connected to the fact that we deleted a provision in the existing rule at 7 CFR 273.18(d)(1)(i)(B) that allowed State agencies not to pursue a claim if the household cannot be located.

We believe sending the notice via first class mail is an efficient and reliable

method to deliver demand letters. If the mail is not returned by the Postal Service, the State agency can assume that the household received the notice. The State agency may then proceed with collection action.

If the mail is returned, then obviously the household did not receive the notice. Under the existing regulations, the State agency did not need to further pursue this claim. The proposed rule eliminated this option. Considering the comments received above, we are reinstating this option in the final rule. State agencies may (but are not required to) terminate the claim if the household cannot be located. (See § 273.18(e)(8)).

Are State agencies allowed to send the demand letter and notice of adverse action (NOAA) separately?

The proposed rule requires the State agency to provide the household with a NOAA ''as part of or along with'' the initial demand letter/claim notification. Two commenters stated that they send the NOAA separate from the demand letter. The NOAA is sent subsequent to the demand letter, when it is determined what ''adverse action'' will take place.

In our proposal, we did not intend to require that the NOAA accompany the demand letter. However, in looking at the proposed language, we see how it could be interpreted in that way. Therefore, we are changing this language in the final rule to clear up this confusion. (See § 273.18(e)(3)(iii)).

Should the household be advised in the demand letter that the State agency can compromise the household's claim?

Two recipient interest groups commented that the State agency needs to notify the household that the State may be able to compromise its claim. The groups cite a recent court case, *Bliek* v. *Palmer*, 102 F. 3d 1472 (8th Cir. 1997). In *Bliek*, the court ruled that the failure to properly advise a household of the agency's compromise authority violates the household's due process rights.

While we do not agree with the court decision that we were violating the due process rights of the household, we do recognize the benefits of including this language in the demand letter. Therefore, we are including language for the demand letter specifying that the State agency may compromise a claim in the demand letter requirements. (See § 278.18(e)(3)(iv)(M)).

Don't we need more information in the demand letter in addition to informing the household of the ''type'' of claim?

One recipient interest group commented that it is unclear as to what we mean when we require that the household must be informed of the type of overpayment. Our intention is that the household would be informed of the reason for the overpayment and time period involved. This also includes whether it is an IPV, IHE or AE claim as well as a brief explanation (such as unreported income, etc.). We make this intention clear in the final rule at § 273.18(e)(3)(iv).

We also received two comments stating that the demand letter needs to show how the claim was calculated. We agree and will include this as a requirement in the final rule. (See § 273.18(e)(3)(iv)(E)).

Must the demand letter contain a due date?

The purpose of including the due date in the demand letter is to determine delinquency. We received two comments on the proposed requirement to include a due date in the demand letter. One State agency asked whether a specific date is needed or if language such as ''30 days from the date of this letter'' is sufficient. The commenter believed that a specific date is not needed since: (1) It is clear to the household when payment or a response is due and (2) the State agency would still be able to determine delinquency status. We agree. The second commenter believed that including a due date would confuse participating households. The due date is irrelevant for these households because they are about to have their benefits automatically reduced to pay off the claim. Again, we agree. However, any subsequent notification to the household once it leaves the program must include a due date. The final rule reflects this change. (See § 273.18(e)(3)(iv)(N)).

Can a State agency continue to provide participating households with the choice of how to repay the claim?

The proposed rule requires State agencies to automatically collect any claim from a participating household through allotment reduction. One State agency asked whether they could still give a participating household a choice in the demand letter of how to pay the claim.

We believe that allotment reduction is by far the most efficient way to collect a claim. However, to maintain the spirit of this rule, we do not object if a State agency wishes to give the household other options. The only requirement is that the household pay off the claim at the same or higher level of the amount that would have been collected through allotment reduction. This is reflected in the final rule at § 273.18(e)(3)(iv) and § 273.18(g)(i).

What exactly needs to be included in the initial demand letter/claim notification?

Two recipient interest groups commented that we should spell out exactly what needs to be in the demand letter. We agree. The following table lists what needs to be in the demand letter. The changes discussed above are included in this listing and at § 273.18(e)(3)(iv) in the final rule:

The initial demand letter or NOAA must include . . .

(1) The amount of the claim.
(2) The intent to collect from all adults in the household when the overpayment occurred.
(3) The type (IPV, IHE, AE or similar language) and reason for the claim.
(4) The time period associated with the claim.
(5) How the claim was calculated.
(6) The phone number to call for more information about the claim
(7) That, if the claim is not paid, it will be sent to other collection agencies, who will use various collection methods to collect the claim.
(8) The opportunity to inspect and copy records related to the claim.
(9) Unless the amount of the claim was established at a hearing, the opportunity for a fair hearing on the decision related to the claim
(10) That, if not paid, the claim will be referred to the Federal government for federal collection action.
(11) That the household can make a written agreement to repay the amount of the claim prior to it being referred for Federal collection action.
(12) That, if the claim becomes delinquent, the household may be subject to additional processing charges.
(13) That the State agency may reduce any part of the claim if the agency believes that the household is not able to repay the claim.
(14) A due date to either repay or make arrangements to repay the claim, unless the State agency is to impose allotment reduction
(15) If allotment reduction is to be imposed, the percentage to be used and the effective date.

Claims and Fair Hearings

Households have 90 days to request a fair hearing if they believe that some

part of the claim is incorrect. Several comments were received on the interaction between fair hearings and claims.

What must the State agency include in the demand letter/repayment notice sent following a fair hearing decision?

In the proposed rule, when a hearing decision is rendered sustaining an overpayment, the State agency must send a second demand letter to the household. Three State agencies questioned the need for such a letter as the household already received the original letter.

It was not our intention to have the post-fair hearing demand letter be the same as the original demand letter. However, we still believe that some type of notice is necessary. The post-fair hearing demand notice only needs to be a statement saying that the household still owes the claim and what will be the next step (i.e., allotment reduction or demand for payment). The date of delinquency will be based on the time period provided in this notice. This clarification is reflected in the final rule at § 273.18(e)(6)(ii).

In addition, one local agency asked whether the household can request a fair hearing based on this notice. The answer is no. Since the amount of the claim has already been sustained at a hearing, a second hearing on the same issue is not an option.

Does collection action really need to stop when a fair hearing is requested?

In the proposed rule, all collection actions would stop if a fair hearing is requested. Five State agencies disagreed with this proposal. The commenters stated that this procedure would result in collection delays of several months. We recognize the commenters' concerns. However, we believe that the rights of households supersede these concerns. For this reason, our policy to cease collection action when a fair hearing is requested will remain in the final rule.

Delinquency

Referring appropriate claims for TOP and other Treasury reporting requirements make it necessary for us to determine when a claim initially becomes delinquent. In the proposed rule, a claim becomes delinquent if no response or payment is received by the due date in either the demand letter or repayment agreement. A claim remains delinquent until payment is received in full, a satisfactory payment agreement is negotiated, or allotment reduction is invoked. We received six comments specifically supporting this definition. We received an additional four comments concerning the applicability of this definition.

Can claims handled through the court ever be considered delinquent?

The proposed rule stated that a claim may not be considered delinquent if collection is coordinated through the court system and the State agency has limited control over the collection action. One State agency commented that we should not make an exception for claims paid through the court. We are not making an overall exception in this case. Our intent is simply to accommodate situations that are unique to some States. In these situations, the State agency has limited contact with the court and is not always able to accurately determine the status of the claim. As a result, the State agency is unable to determine if the claim is delinquent. This policy only pertains to these situations. (See § 273.18(e)(5)(v)).

Is the claim still considered delinquent if the household is making a good faith effort to pay the claim?

The existing rules provide for a comprehensive notice and an opportunity to have a payment plan reinstated if an installment payment is missed.

The proposed rule eliminated this provision. Three recipient interest groups commented that this provision should be reinstated. They contend that there may be many reasons why a payment may be missed, and those who are making a good faith effort to repay the claim should be protected. We agree with the commenters that a single missed or partial payment should not automatically subject the household to the involuntary collection actions brought about by TOP. When a good faith effort is being made to pay the claim, circumstances do exist where it may be appropriate to reinstall or re-negotiate the repayment schedule. However, even though the provision providing for this opportunity is removed, the effect of the provision is still the same. Under both the existing rules and Section 13(b)(4) of the amended FSA (7 U.S.C. 2022(b)(4)), State agencies already determine whether to accept a proposed reinstatement or re-negotiation plan. This final rule in no way prohibits households that are making a good faith effort from requesting reinstatement or re-negotiation of its payment plan and we strongly encourage State agencies to consider such requests on a case-by-case basis. In addition, if hardship exists, a State agency may compromise a claim and/or adjust the installment payment to lower amount.

Should delinquency be pushed back to at least 90 days after the demand letter?

We defined delinquency as when payment is not made by the due date. This due date is not to be more than 30 days after the date of the initial demand letter (see § 273.18(e)(3)(v)). Three recipient interest groups suggested that the delinquency time frame should be at least 90 days. This 90 day period corresponds to the time period when the claim may be appealed as well as providing households with adequate time to determine how to address the claim. The commenters also contend that State agencies will incur unnecessary administrative expenses because they would need to reverse any collection process in place when the claim is appealed.

We disagree with the commenters that 90 days would be more appropriate. The delinquency date is primarily used to determine whether a claim is to be referred for TOP. As specified in this final rule at § 273.18(n)(1)(i), a claim must be delinquent for 180 days before being referred for TOP. Combined with a 30-day delinquency time frame, this already provides the household with up to 210 days after the initial demand letter to adequately address its claim. In addition, relatively few households request fair hearings on claims. State agencies have indicated that those households that do request a fair hearing usually make the request shortly after receiving the notice. Therefore, extending the delinquency time frame to accommodate the fair hearing time frame serves no practical purpose for either the household or the State agency. This proposal is carried over into the final rule. (See § 273.18(e)(5)).

Household Cooperation Waiver Authority

The ''Calculating Overissuance Claims'' section on page 29307 of the preamble to the proposed rule discussed allowing a State agency to waive up to 20 percent of the claim if the household cooperates with the establishment of its claim. However, we did not include this in the proposed regulatory text. Three commenters supported including this incentive in the final rule. However, eight commenters disagreed with this incentive stating that household cooperation should not be a basis for reducing an overissuance. We concur with the eight commenters and did not include this incentive in this final rule.

Terminating and Writing-Off Claims

A terminated claim is a claim for which all collection action has stopped. A written-off claim is a claim that is no longer subject to our reporting and collection requirements. We proposed that a terminated claim must be immediately written off. The table below summarizes our proposed policy for State agencies on terminating and writing-off claims:

PROPOSED TERMINATION POLICY

If . . .	Then you . . .	Unless . . .
(1) a hearing or court finds the claim to be invalid.	must terminate and write-off the claim or determine if an IHE or AE claim still exists.	
(2) all adult household members die	must terminate and write-off the claim	you plan to pursue the claim against the estate.
(3) the claim balance is $25 or less and the claim has been delinquent for 90 days or more.	must terminate and write-off the claim	
(4) you determine it is not cost effective to pursue the claim any further.	must terminate and write-off the claim if we previously approved your cost-effectiveness criteria.	we have not previously approved your overall cost-effectiveness criteria.
(5) the claim is delinquent for three years or more.	must terminate and write-off the claim	you have received prior collections through the Federal Offset Program, state tax refund offset or any similar collection mechanism.
(6) a new collection method is introduced or an event (such as winning the lottery) occurs to substantially increase the likelihood of further collections.	may reinstate a terminated and written-off claim.	

The public submitted 19 comments regarding this proposal. Four State agencies supported this proposal as written. The other commenters had concerns primarily focusing on accounting treatment, the three year termination time frame, and claim reinstatement.

Can a claim be found to be invalid (and subsequently terminated under the first criterion) only as a result of a hearing?

Two commenters pointed out that terminating an invalid claim should not be limited to hearing decisions. Occasionally, a State agency becomes aware of factual information that negates an already established claim. In these instances, the commenters believe that the State agency should have the authority to terminate the claim. We agree. The final rule at § 273.18(e)(8)(ii)(A) reflects this change by not limiting this termination criterion to hearing and court decisions.

Is writing-off an invalid claim considered proper accounting?

One commenter stated that a claim found to be invalid (see criterion (1) above) should not be written-off but disposed of in another manner. The reason is that only ''bad debts'' should be written-off. An invalid claim is not a bad debt but rather a debt that never should have existed in the first place. We agree with the commenter. Therefore, in the final rule, we will reflect that all debts terminated because they are invalid will be considered a balance adjustment rather than a write-off. (See § 273.18(e)(8)(ii)(A)).

Why is the time frame for terminating delinquent claims only three years?

Six commenters expressed concern that three years are not long enough to pursue collection before terminating and writing-off the claim. According to the commenters, experience has shown that the nature of the Treasury Offset Program (TOP) is such that significant collections often take place after the claim is delinquent for three years.

The purpose of proposing the three year time frame is to dispose of receivables that are laying idle and the likelihood of further collection action is relatively low. Recent audits and management reviews indicated a need to dispose of these claims. However, after considering these comments, we are going to modify this proposal. The final rule still allows State agencies to terminate claims that have been delinquent for three years. However, a State agency is not required to terminate the claim if it believes it is cost effective to retain the claim in TOP beyond the three years. In this manner, claims will either be terminated or actively pursued in TOP. No claim will be allowed to simply remain idle. (See § 273.18(e)(8)(ii)(E)).

How does the cost-effectiveness criteria for terminating claims (the fourth criterion) differ from the cost-effectiveness criteria for the threshold for establishing and collecting claims?

Clarification is needed in this area. The cost-effectiveness determination for terminating claims applies only to claims that are already established and are delinquent. These claims are relatively low dollar amount claims that are not actively being collected, the regular avenues of collection have been exhausted, and are simply not worth further collection pursuit. This criterion may not be used for claims that are current or are being paid. Claims are not to be automatically terminated when an outstanding receivable drops below a certain dollar amount. State agencies should contact us if they need further guidance in this area.

Why do we allow reinstating terminated and written-off claims?

Five commenters expressed concerns about the proposed policy to reinstate terminated and written-off claims. The commenters generally opposed making this proposal a requirement. Concerns focused around this proposal imposing an unnecessary burden on State agencies for storage and record maintenance for a very small percentage of cases.

We want to stress that this was proposed as an option and is not mandatory. A number of State agencies indicated a great desire to have this ability. This was proposed simply to enhance State agency flexibility. In the final rule, this ability will remain as an option. Only those State agencies that wish to pursue this course need to store and maintain records of terminated claims.

Why don't we establish a termination policy based on dollar amounts?

One State agency commented that it would like to have the latitude to set different time schedules for termination and write-off based upon the amount and the cause of a claim. The commenter stated that notable differences exist between a $200 AE claim and a $10,000 claim caused by an IPV and these differences ought to be recognized when establishing administrative offsetting polices for writing-off delinquent claims. This is a valid point. We believe that the final rule at § 273.18(e)(8)(ii)(E) provides for this flexibility. First, any claim that is delinquent for six months, be it for $200 or $10,000, should be referred for TOP. There will be no requirement to remove either claim from TOP for termination after three years. Second, under § 273.18(e)(8)(ii)(D) in the final rule, the State agency has the authority to create its own cost effectiveness termination criteria. We do not object to any State agency treating IPVs differently from other claims when determining these criteria.

Should the termination policy be expanded to include other situations?

One commenter stated that the termination policy should include bankruptcy cases and in instances where the responsible party is in a nursing home. We recognize that the possibility of collection diminishes in these situations. However, we do authorize State agencies in § 273.18(j) of this final rule to pursue claims that file for bankruptcy. For the nursing home situation and in other instances where household circumstances negate further collection, the State agency can compromise the remaining balance of the claim (see § 273.18(e)(7)), thereby gaining the same result as a termination and write-off. No change in the rule is necessary based on this comment.

What changes regarding this proposal are incorporated into the final rule?

In addition to the changes discussed above, State agencies may also terminate a claim if the household cannot be located. We discuss this in the *Notification of Claim* section of this preamble. All of the changes are reflected in the table at § 273.18(e)(8)(ii) in the final rule.

Compromising Claims

Reducing a claim because a household is unable to pay is known as ''compromising'' a claim. We proposed two changes in our policy on compromising claims. The first proposed change limits the State agency's authority to compromise claims to under $20,000. The second proposed change reinstates the compromised portion of a claim if the remaining claim balance subsequently becomes delinquent. We received 12 comments on compromised claims. Ten of these comments dealt directly with these two proposed revisions. The remaining two comments addressed other aspects of our policy on compromising claims.

Why propose a $20,000 limit for compromising claims?

Five commenters opposed establishing the $20,000 limit for compromising claims on the basis that the limit was too restrictive. One of the commenters added that attorneys should be allowed to compromise these larger claims through civil or criminal prosecution.

We took the $20,000 limit in the proposed rule directly from Treasury's Federal Claims Collection Standards, 4 CFR 103.1, (FCCS). OMB Circular A–129 increased this limit to $100,000. One of the goals of this rule is to conform, wherever feasible, with the FCCS and other Federal debt collection guidelines. However, we must take into account that recipient claims are unique in that they are State-administered Federal claims. The comments show that there are instances, such as during prosecutions, where it is appropriate to allow States to retain the right to compromise any claim. Past practices by State agencies show that the current compromise policy (that has no dollar limit) is not being abused. Considering this, we have decided to delete this proposal and allow State agencies to continue to compromise any claim. (See § 273.18(e)(7)).

Why mandate reinstatement of compromised amounts if the remaining balance becomes delinquent?

As stated above, a second proposed change reinstates the compromised portion of a claim if the remaining claim balance subsequently becomes delinquent. This proposal provides an added deterrent against a debt becoming delinquent. Five commenters objected to this proposed mandate. The reasons given were: (a) Mandatory reinstatement is too harsh given the household's economic circumstances; (b) reinstating the compromised amount may go against a court order; (c) the proposal is too complex to administer; and (d) costly system changes are needed to implement the proposal.

Considering these comments, we recognize that mandating reinstatement of compromised claims places an added burden on State agencies. This burden goes beyond what we believe is necessary for efficient and effective claims management. Therefore, we are revising this proposal to give State agencies latitude in this area. In the final rule, reinstatement is a State agency option rather than a mandate. (See § 273.18(e)(7)).

Should we even allow State agencies to compromise claims?

One commenter believed that no claims should be compromised. We disagree. Compromising claims is a proven effective claims management tool widely used in both the public and private sectors. With compromising authority, State agencies can manage their outstanding receivables better by pursuing amounts that they can expect to collect.

Accepting Payments

Are State agencies required to accept credit and debit card payments?

The proposed rule allows State agencies to accept payments from credit and debit cards if the agency has the capability to accept such payments. One State agency expressed a concern that claims may need to be waived if agencies do not accept a credit or debit card when it is authorized by us. This is not the case. We only authorize this collection method. We do not require it. No change is needed in the final rule.

Will we reimburse State agencies for credit card processing fees?

One State agency asked whether we will reimburse State agencies for credit card processing fees. Credit card processing fees will be reimbursed at the same rate as all other allowable administrative costs. This rate is currently 50 percent. Since this is consistent with the reimbursement rules at 7 CFR 277.4, no change is needed in this rule.

What about debts that are to be paid for with community service?

One State agency commented that we need to add provisions to accommodate debts being paid through community service. The agency further states that some judges in its State are ordering community service at an hourly rate ranging from $15 to $100. The commenter believes that this rate should not exceed minimum wage.

We concur that a provision is needed to recognize that debts may be settled by community service. This addition can be found in § 273.18(g)(7) of the final rule. Since community service activity varies greatly, we are reluctant to set a specific hourly rate for such work.

Therefore, we leave it up to the State agency, in conjunction with the court, to determine this rate.

Is requiring the pro-rata distribution of non-specified payments now required?

We proposed that each affected assistance program with a claim receive its fair share when the State agency receives an unspecified collection for a combined public assistance/food stamp recipient claim. An unspecified collection is a general payment received in response to a notice or referral in which the food stamp claim is combined with another claim(s). Our primary concern is that, on occasion, State agencies give PA/TANF claims first priority in unspecified collections. The reason for this is because the State agency retains 100 percent of PA/TANF collections. On the other hand, the State agency retains an aggregate of only about 22 percent of FSP claim collections. The remaining 78 percent (consisting of 65 percent of IPV collections, 80 percent of IHE collections and 100 percent of AE collections) is returned to us.

Nine State and local agencies objected to this proposal. One objection is that this proposal will require large-scale system changes. Two State and one local agency believed that the State should be able to assess collections to where they believe it would be most beneficial. Other State agencies commented that prior agreements with households should take precedence.

Our goal with this proposal is to ensure that State agencies are not routinely assigning all unspecified claims collections to non-FSP programs. This provision does not pertain to any existing or future agreements with households or collection methods targeting a payment to a certain program. Only unspecified payments are included and we strongly believe that these collections should be distributed fairly. We do not believe that this places an undue burden on State agencies. Therefore, we have retained this proposal in the final rule at § 273.18(g)(9). Any State that has an alternative distribution system that is equitable or believes that it will take large-scale system changes to comply with this provision can submit a waiver request for our consideration.

Collection of Agency Error Claims

Prior to the enactment of PRWORA, AE claims could only be collected on a voluntary basis. PRWORA amended section 13 of the FSA (7 U.S.C. 2022) to subject all claims—including AE claims—to involuntary collection methods. This change was reflected in the proposed rule. We received a wide range of comments in this area.

Is holding households responsible for an error that was not their fault considered good public policy?

Three State agencies commented that using involuntary collection methods to recoup these claims is not good public policy since the households may not even have been aware of the error prior to the implementation of the involuntary collection actions. One commenter stated that the follow-up work necessary for the State agency to answer inquiries as well as conduct hearings takes up a disproportionate amount of time. In addition, the same commenter believed that the focus of the new provisions affecting AE claims should not be on the household but on the food stamp agency that caused the error.

We recognize the commenters' concerns and are working with State agencies to reduce these types of errors. However, a household with an AE claim did, in fact, obtain more benefits than it was entitled to receive. But most importantly, section 13 of the FSA (7 U.S.C. 2022), as amended by PRWORA, is clear that all overpayments are to be collected. Any stipulations in the law to make special allowances for overpayments caused by agency errors were removed by PRWORA. Therefore, we believe that we are following the intent of Congress by having State agencies vigorously pursue these overpayments.

Why aren't AE claims subject to equitable estoppel?

Equitable estoppel is a legal concept adopted by a number of States that provides that individuals should not be held responsible for errors that were not their fault. The preamble of the proposed rule at 63 FR 29307 clarified that, since food stamps are Federal benefits, Federal law does not allow for an exception for equitable estoppel in AE claims. We received three comments regarding this issue.

Two recipient interest groups disagreed with our position on AE claims and equitable estoppel. They believe that the FSA does not specifically prohibit equitable estoppel, especially since this activity is delegated to State agencies. We disagree. Section 13(a)(2) of the FSA clearly states that a household " . . . shall be . . . liable for the value of any overissuance of coupons." This language establishes that a household must be held accountable for any claim, including those caused by agency errors.

One State agency commented that we need to strengthen the fact that equitable estoppel does not apply to food stamp AE claims. The commenter suggested that we add specific language to the regulations indicating this position. We do not believe that this is necessary. The discussion above and in the preamble of the proposed rule should suffice and no change is needed in the final rule.

Should we have the same rule for dropping AE claims that exists in the Supplemental Security Income Program (SSI)?

We received four comments recommending that we establish a policy similar to SSI for waiving AE claims. In SSI, a claim may be waived if:

(a) The overpaid individual was without fault in connection with the overpayment, and

(b) Adjustment or recovery of the overpayment would either:

(1) Defeat the purpose of the SSI program, or

(2) Be against equity and good conscience, or

(3) Impede efficient or effective administration of the SSI program due to the small amount involved.

The commenters are particularly interested in waiving AE claims that fit criteria (b)(1) and (b)(2) above. We recognize that this recommendation does have some merit. However, we believe that State agencies already have similar authority. State agencies are currently authorized to compromise claims when households are unable to pay because of hardship or similar reasons. Therefore, we do not believe that this change is necessary.

Allotment Reduction

The proposed rule introduced a number of changes in allotment reduction as a means of claims collection. We received a number of comments on these changes and allotment reduction in general.

Is allotment reduction now required for participating households with claims?

The proposed rule states that a State agency must use allotment reduction to collect claims against participating households. Five commenters believe that State agencies should be able to choose whether to invoke allotment reduction against a particular household. Four of the commenters point out that that section 13(b)(4) of the FSA (7 U.S.C. 2022(b)(4)) was amended by PRWORA to specify that claims are to be collected in accordance with ". . . requirements established by the State

agency for . . . electing a means of payment. . . .''

We recognize this passage in the FSA. However, section 4(c) of the FSA (7 U.S.C. 2013(c)) states that we must issue regulations necessary for the effective and efficient administration of the FSP. As discussed earlier in this preamble, allotment reduction is the most efficient collection method. Therefore, we believe that it is within our authority to mandate allotment reduction. However, to maintain the spirit of this rule, we do not object if a State agency wishes to use an alternative collection method. The only requirement is that the household will be paying off the claim at least at the same level as the amount that would have been collected through allotment reduction. This is reflected in § 273.18(g)(1)(i) of this rule.

Doesn't allowing involuntary allotment reduction for AE claims established before PRWORA violate due process?

Section 844 of PRWORA amended section 13 of the FSA (7 U.S.C. 2022) by removing the provision prohibiting State agencies from using involuntary allotment reduction against households with AE claims. The proposed rule allows this type of collection and does not exclude those AE claims that were established prior to the enactment of PRWORA. Four recipient interest groups submitted comments stating that this change should not apply to pre-PRWORA AE claims. The specific concerns of the group are that: (1) The law makes no provision to apply the allotment reduction retroactively and (2) to do so would violate the household's due process rights.

We recognize that PRWORA is silent on the question of whether this provision applies to claims established before the passage of PRWORA. However, we believe that recoupment of all claims regardless of the date of establishment is consistent with and implied by the FSA. Prior to PRWORA, households were still obligated to pay AE claims. By allowing allotment reduction for pre-PRWORA AE claims, we are simply introducing an additional collection procedure. We are not altering the status of the claim.

The commenters were also concerned that this action would violate due process rights. We shared this concern. For this reason, when PRWORA was originally enacted, we instructed State agencies to re-notice households that would be affected by this change in the law. Since this procedure affects a limited number of cases and State agencies have already been notified, we do not believe that this needs to be specified in the final rule.

Why can't State agencies reduce benefits for the first month that a household receives benefits?

The proposed rule carried over our longstanding policy not to reduce an initial allotment to pay off a claim. The reason for this is because the allotment is frequently reduced based on when the household's application was filed. Three State agencies disagreed with this policy. The commenters recommended that a pro-rated reduction be done based on the reduced allotment. The State agencies saw no reason why it should lose this month in which the claim could be collected.

While the commenters do raise valid points, we hesitate to change this longstanding policy. First, as stated above, the household's allotment is already reduced. Second, there was no discussion to change this policy in the proposed rule. The final rule remains unchanged.

As a State agency, why can't I collect a claim from the same household by using TOP in addition to allotment reduction?

The proposed rule does not allow a State agency using allotment reduction to also collect the claim from members of the same household using TOP. One State agency commented that it should be able to use both methods simultaneously. We disagree. TOP is for non-participating household members. We do not believe members in households that are currently receiving benefits should, at the same time, be subjected to the delinquent processing charges imposed by TOP. The final rule remains as proposed.

Can State agencies use additional collection methods against a household at the same time while they are collecting through allotment reduction?

Four commenters believed that State agencies should be able to use additional non-TOP collection methods against a household that is having its allotment reduced. Conversely, five commenters supported not allowing additional collections in this circumstance. State agencies regularly employ their own methods to collect food stamp recipient claims. These methods include but are not limited to lump sum and installment payments, wage garnishments, UCB intercept, and State tax refund and lottery winnings offsets. Although we provide the State agency broad authority in this area, we do not believe that it is fair to the household for the State agency to employ most of these additional collection methods when the household is already having its allotment reduced. This is reflected in this final rule. There are two exceptions to this rule: (1) When the additional payment is voluntary; or (2) when the source of the payment is irregular and unexpected such as a State tax refund or lottery winnings offset. (See § 273.18(g)(1)).

Why did we increase the minimum allotment reduction amount for IPV claims to $20 per month?

Current regulations at 7 CFR 273.18(g)(4)(iii) limit the reduction amount for an IPV claim to the greater of 20 percent of a household's monthly entitlement or $10 per month. The proposed rule increased the $10 to $20. One recipient interest group objected to this increase. The commenter believed that this is unnecessarily punitive to households and adds little increase in collection receipts to State agencies. We disagree. We do not believe that the additional $10 per month, especially when a household member was involved in such a serious infraction, would create a significant household burden. In addition, little additional work is needed by the State agency to collect the additional amounts. The final rule remains unchanged. (See § 273.18(g)(1)).

Can State agencies ever reduce an allotment at a rate greater than the prescribed limits?

The proposed rule set limits for the maximum rate of allotment reduction. For IPV claims, the proposed rate is $20 or 20 percent (whichever is greater) of the entitlement or allotment. For IHE and AE claims, the rate is $10 or 10 percent of the allotment, whichever is greater. Two State agencies recommended that they be given authority to reduce allotments at rates higher than what we proposed. The commenters believe that households with additional income and resources should be able to have their benefits reduced at a greater percentage.

We want to make it clear that, with the household's permission, State agencies are able to reduce an allotment at a rate higher than the prescribed limit. This is carried over into the final rule. We are not, however, allowing State agencies to collect at higher rates without this permission. Section 13(b)(3) of the FSA (7 U.S.C. 2022(b)(3)) establishes these limits (the greater of 10 percent or $10) for IHE and AE claims. This rate cannot be changed. We believe that the doubling of this rate (to the greater of 20 percent or $20) is fair for IPV claims. The final rule remains unchanged. (See § 273.18(g)(1)).

Why allow State agencies to use benefit entitlement rather than the actual allotment for determining how much of a monthly payment to use for IPV allotment reductions?

The current regulations at 7 CFR 273.18(g)(4)(iii) required State agencies to base IPV allotment reduction on entitlement rather than the actual allotment. Entitlement is what the household would have received if the individual who received the IPV was still participating. In the proposed rule, we gave State agencies the option to use the actual allotment as the base. Three recipient interest groups recommended that we just have State agencies use the allotment rather than entitlement. The commenters believe that basing the reduction on entitlement places too much of a burden on households.

As discussed above, State agencies are currently required to base IPV allotment reduction on entitlement. In the final rule, we are allowing State agencies to use the allotment as the basis. This, in itself, would provide relief to some households. Requiring all State agencies to base IPV benefit reductions on allotment at this time would go against the spirit of this rule by reducing the amount of flexibility afforded to State agencies. In addition, some State agencies would incur significant costs for system changes. The final rule remains unchanged.

Can State agencies now use benefit allotment as the basis for reducing allotments against households that are already getting their benefits reduced based on the entitlement?

One State agency asked if it can apply this rule change to households that are already getting their benefits reduced based on the entitlement. We do not place any limits on the applicability of this provision in the final rule and have no objection to the State agency's request.

Collecting a Claim From Individuals in Separate Households

All adults who were members of the household when the overpayment occurred are responsible for repaying the claim. The proposed rule allows the State agency to pursue additional collection activity against any individual liable for the claim who is not currently a member of a participating household that is undergoing allotment reduction. Several commenters supported this provision. One State agency had the following question:

Are State agencies required to reduce the allotments of all affected households when two or more individuals responsible for the claim are now receiving benefits in different households?

The State agency is concerned because many State systems are not set up to accommodate this type of simultaneous collection. The commenter believes that the State agency should have the option to collect from only one of the participating households. While there is a definite benefit to having simultaneous allotment reductions, we recognize and share the State agency's concern. Therefore, to maintain the spirit of this final rule, we are allowing, but not requiring, this type of collection. (See § 273.18(g)(1)).

Using EBT Benefits To Collect a Claim

The current regulations are silent on using EBT benefits to collect a claim. We proposed the following policy in the May 28, 1998 rule:

PROPOSED EBT BENEFITS CLAIMS COLLECTION POLICY FOR STATE AGENCIES

You must . . .	and . . .	and . . .
(1) allow a household to pay its claim using benefits from its active food stamp EBT benefit account.	the household must give you written permission.	the retention rules apply to this collection.
(2) allow payments from stale EBT benefit accounts once the account is reactivated.	the household must give you written permission.	the retention rules apply to this collection.
(3) adjust the amount of the claim by subtracting any amount expunged from the claim balance.	this can be done either when establishing the claim or anytime after.	the retention rules do not apply to this adjustment.

An active EBT account, as referred to in the first row of the table, is one where the household readily has access to the account. Generally, provided the household accesses its benefit account each month, the account remains active. If the account is not accessed for three months or longer, the account is considered dormant or stale. To activate a stale account, the household must first contact the State agency. An expunged account, as referred to in the third row of the table, is when the State agency erases the value of the benefits from the household's account and reports to us the total amount expunged so that we may deobligate the funding. No funds are ever paid. This is usually after no benefits have been accessed from the account for one year. The household permanently loses these benefits.

We received 53 comments on this comprehensive proposal. Six of these comments supported some aspect of this proposal. The remaining 47 comments had specific concerns. Because of the nature of the comments, we are dividing this discussion into two parts: *Collecting Claims Using Active and Stale EBT Benefits* and *Adjusting Claims using Expunged EBT Benefits.*

Collecting Claims Using Active and Stale EBT Benefits

We proposed that State agencies be able to collect claims from active or stale EBT benefit accounts with the household's permission. State agencies would retain the usual amounts for this method of collection. We received a number of comments on the use of collection method:

How can State agencies obtain funding to implement this procedure?

Two State agencies expressed concern about obtaining funding to implement this provision. The commenters noted that some State agencies will need to purchase equipment to access EBT accounts and conduct these transactions. However, the commenters provided no information that these costs are prohibitive. Funding is available in the usual manner with State agencies being compensated according to the reimbursement provisions for administrative costs in section 16(a) of the FSA (7 U.S.C. 2025(a)). In addition, State agencies will also receive the regular retention amounts for these collections.

What procedures must be used when State agencies access households' EBT benefit accounts to collect claims?

State agencies are to develop their own procedures for accessing EBT benefit accounts. One recipient interest group expressed a concern about the security of EBT accounts. We agree with the commenter that security procedures must be in place to ensure that only those workers that are authorized actually gain access to a household's EBT benefit account. To address this, we already have EBT system security regulations in place at 7 CFR 274.12(h)(3). The EBT security regulations include dual controls and access controls such as passwords for those authorized to perform this activity. Therefore, there is no need to duplicate this regulation in § 273.18 of this rule.

Why are these payments treated as non-cash payments?

The proposed rule specifies that a collection using EBT benefits is considered a non-cash collection and corresponding funds are not to be drawn from the Federal EBT account by the State agency. Two State agencies are concerned that this policy will create discrepancies in their account receivable systems. The commenters believe that since this non-settling transaction will not be handled as a cash transaction, the amount drawn from the Federal EBT account will not equal the withdrawals from the households' accounts.

We see no reason why a State agency needs to draw down Federal funds only to return them at a later date. Current EBT systems accommodate this transaction as non-settling without difficulty. The original scheme for EBT repayment of claims was designed to fit within the current reporting and retention processes State agencies have in place for coupons. Payment via coupons has always been considered a non-cash transaction for retention and reporting purposes. The rule remains unchanged. (See § 273.18(g)(2)(iii)). We are available to provide technical assistance if State agencies still believe that they are unable to do this procedure.

Should we provide model household permission forms for State agencies to use for gaining household permission for EBT collections?

In the proposed rule, we require that collections from active EBT benefit accounts be transacted only with the written permission of the household. One recipient interest group recommended that we provide State agencies with model authorization forms to ensure that the household's consent is informed and voluntary. We agree with the commenter that additional guidance is needed in this area. However, in lieu of providing a model form (which stifles State agency flexibility), we are providing a clear listing of the minimum requirements for a household permission form. This listing serves the same purpose as a model form and is found in § 273.18(g)(2)(iv) of this final rule.

Should written permission be for an indefinite period?

The preamble for the proposed rule stated that a signed document is not necessary for each EBT collection if the transaction was provided in accordance with a signed agreement. We received five comments regarding this issue. Two commenters recommended that we place a limit on the length of these agreements. We believe that State agencies should be able to limit the length of these agreements as they wish. However, we do not believe that it would be within the spirit of this rule to mandate that these agreements be limited.

Three commenters recommended that a household be allowed to revoke prior authorizations. Since this type of collection is strictly voluntary, we agree with the commenters. This change is found in § 273.18(g)(2)(iv)(E) of this final rule.

Does permission to collect through EBT benefit accounts always need to be in writing?

One commenter recommended that State agencies be able to use documented verbal authorization on a limited basis. According to the commenter, it is practical and less burdensome for both the household and the State agency to be able to conduct a single transaction while obtaining authorization from the household over the telephone. The household would then be sent a receipt documenting the transaction.

We concur with this recommendation and are including it in the final rule at § 273.18(g)(2). This procedure streamlines the process without sacrificing the rights of the household. In the case of a misunderstanding, the household can always request the return of the benefit in a fair hearing.

Is there any way that State agencies can collect on a stale EBT benefit account without receiving prior authorization?

One commenter recommended that State agencies be able to collect without prior written authorization from stale EBT accounts. They believe that with this authority State agencies could recover, and possibly, close many outstanding claims. We share the commenter's concern and belief. Therefore, we have devised a procedure to allow this type of collection while safeguarding the rights of the household.

In the final rule, State agencies may reduce benefits from stale EBT accounts to collect claims using the following procedure:

(1) The State agency mails or otherwise delivers to the affected household notification that the agency intends to reduce the household's stale EBT benefit to pay off an outstanding claim. (2) The notification specifies a time period for the household to respond if it does not want its benefits to be used to pay off the claim. This time period, which is to be established by the State agency, must be at least 10 days. (3) If the household does not respond by the established time period, the State agency then may reduce the EBT benefit account to pay off the claim.

We believe that this procedure strikes an appropriate balance between efficient claims collection and household rights. With this procedure, households can easily pay off and State agencies dispose of claims. In addition, any household that does not want its benefits to be reduced can simply prevent this by notifying the State agency. (See § 273.18(g)(2)).

Why can't State agencies involuntarily collect from an EBT account when the household was at fault?

Two State agencies believe that permission should not be needed at all to collect IPV or IHE claims through EBT benefit accounts. We disagree. These households are already undergoing allotment reduction. Allowing further involuntary benefit reductions against these households undermines the intent of section 13(b)(3) of the FSA (7 U.S.C. 2022(b)(3)). This section places a limit on the amount that a household's allotment can be reduced to pay a non-fraud claim. We firmly believe that an eligible household actively participating in the program should not have additional benefits involuntarily taken away. The EBT benefit collection methods and procedures discussed above strike a balance between efficient and effective claim collection from EBT benefits while ensuring household rights and access to those benefits.

Collecting Claims using Expunged EBT Benefits

An expunged EBT benefit is a benefit that has been removed from a household's account because the account is not being used. Benefits are expunged when the account is not accessed for one year. Since these benefits were never used, we proposed that they be subtracted from the claim amount and recorded as an adjustment. Also, because this is not considered a collection, there would be no retention. We received a number of comments on the use of expunged benefits to adjust claims.

Should State agencies receive retention when using expunged benefits for claims?

State agencies generally retain 35 percent of IPV collections and 20 percent of IHE collections. In the proposed rule, we do not allow State agencies any retention for reducing claim balances with expunged benefits. We received 15 comments recommending that State agencies receive the retention amount for these transactions. The commenters believe the retention for collecting claims should be a reward for a State agency's comprehensive effort to establish and pursue the claim. The fact that the claim is reduced because it is an expunged (rather than an active or stale) benefit should not matter.

We recognize that establishing and pursuing a claim is labor-intensive and costly. Requesting retention for expunged benefit adjustments is not unreasonable. However, we are unable to comply with this request because we cannot provide retention for ''collecting'' an amount that no longer exists. This provision remains as proposed. (See § 273.18(g)(2)(ii)(C)).

Is proposing not allowing retention for expunged benefits the first step towards classifying all non-cash payments as non-retention eligible?

Three commenters considered it a dangerous trend to propose not allowing retention for expunged benefits. They believe that this is the first step towards classifying all non-cash payments as non-retention eligible. Non-cash payments currently include payments made from active and stale EBT benefit accounts, allotment reduction, and food coupons.

We proposed not allowing retention for expunged benefits because this is an adjustment rather than a collection. Since the benefits have already been returned to the Federal government, there is no net gain by applying the expunged amount against a claim. This is not the case with non-cash claims collections. As such, State agencies need not be concerned about us classifying non-cash payments as non-retention eligible. Unless we receive a legislative mandate, we cannot foresee us changing this policy. We strongly believe that retention should remain an inherent part of the claims collection process.

Doesn't using expunged benefits to adjust a claim adversely impact basic accounting procedures?

Two commenters are concerned that allowing State agencies to reduce a claim using expunged benefits would adversely impact accounting treatment and procedures. When benefits are expunged, obligations and issuances are reduced. In effect, the benefits no longer exist as if they were never issued. Therefore, according to one of the commenters, it is not logical to reduce a claim balance by benefit amounts that no longer exist.

We agree with the commenters that the benefit amounts no longer exist. However, we do believe that we have the authority and that it is appropriate to allow balance adjustments based on expunged benefits. This ability is based on section 13(a)(1) of the FSA (7 U.S.C. 2022(a)(1)) which clearly provides us with broad authority to adjust any claim. The appropriateness is based on the fact that the funds were available to the household and never actually used.

Are State agencies required to reduce claim balances with expunged benefits?

Six commenters, mostly recipient interest groups, supported making this procedure a requirement. We received 13 comments, mostly from State agencies, that do not want this procedure to be a requirement. These State agencies stated that requiring this procedure for all claims would be burdensome, costly, and require significant system changes. State agencies would need to track benefits issued and subsequently expunged for an extended period.

While we believe that there are definite benefits for using expunged benefits to reduce claims, we recognize that this change may, in fact, create a burden for some State agencies. We also recognize that current system limitations and general household dynamics may make this requirement somewhat difficult for State agencies to implement. Therefore, we are modifying this requirement to include only those expunged benefits for which State agencies become aware. State agencies are to develop their own procedures regarding applicability, limits and use. We are not requiring State agencies to overhaul their EBT systems to conform to this new procedure. (See § 273.18(g)(2)(ii)(C)).

Can State agencies reduce IPV claims by using expunged EBT benefits?

One State agency commented that we should not allow expunged EBT benefits to be used to reduce IPV claims. The commenter believes that this allows violators to avoid their liability. We disagree. Expunged benefits are benefits that a recipient was once entitled to use. By not using the benefits, the household did experience a loss. Therefore, we do not believe that a liability is being avoided by allowing this type of collection for EBT benefits. The final rule allows State agencies to offset all claims with expunged benefits.

Can State agencies reduce trafficking claims by using expunged EBT benefits?

Three recipient interest groups believed that expunged benefits should also be used to reduce trafficking claims. We agree. We believe that it is important to maintain a consistent policy in the application of expunged EBT benefits against claims. Therefore, the final rule reflects that expunged EBT benefits can be applied to any claim. (See § 273.18(g)(2)(ii)(C)).

Do the expunged benefits need to be for the same month of the overissuance to be applied to a claim?

Six comments were received requesting clarification regarding whether the expunged benefits needed to be for the month of the overissuance. Some commenters believed that the expunged benefits should be only for the month of issuance. Other commenters expressed concern about not always being able to match up the expunged benefit with the overpayment. We recognize that for some State agencies matching up the benefits with the overpayment may be difficult and burdensome. For this reason, we are providing latitude in this area by allowing States to apply expunged benefits to any overissuance. (See § 273.18(g)(2)(ii)(C)).

Where in this rule is the final policy on using EBT benefits to collect claims?

The final policy, including changes based on the comments addressed above, is at § 273.18(g)(2).

Intercept of Unemployment Compensation Benefits

The proposed rule gives State agencies the option to reduce a person's unemployment compensation benefit

(UCB) to pay off a claim. Section 13(c)(3) of the FSA (7 U.S.C. 2022(c)(3)), however, requires that the State agency first obtain a court order or authorization from the individual prior to reducing the UCB. One State agency objected to this requirement. We recognize that this requirement makes it more difficult for State agencies to use this method effectively. However, we cannot change this requirement, since it is specified in the FSA. As a result, this requirement remains in the final rule. (See § 273.18(g)(6)).

Offsetting Restored Benefits

The proposed rule continued our longstanding policy that State agencies are to offset restored benefits owed to a household by the amount of any outstanding claim. A restored benefit is a benefit from a prior month that the household was entitled to but never received. Five recipient interest groups objected to this provision. The commenters believe that a households should receive the full amount of any benefits that are restored. They cite a recent court ruling, *Lopez* v. *Espy*, 83 F.3d 1095 (9th Cir. 1996), in which the court made this ruling.

We are aware of this ruling. However, there is another court ruling, *Dunn* v. *Secretary of U.S. Department of Agriculture*, 921 F.2d 365 (1st Cir, 1990), in which our policy was upheld. We continue to believe that it is within our authority to have State agencies offset benefits prior to restoration. The final rule remains unchanged. (See § 273.18(g)(3)).

Collection Limits

The proposed rule did not place a limit on how much can be collected from a household during any given year. Three recipient interest groups recommended that a household should not be subject to collection amounts that total over 15 percent of the household's annual income. The commenters believe that the proposals allowing simultaneous collection methods against the same households will result in some households being subject to onerous collection burdens. We do not believe that this limitation is necessary. State agencies have the ability to compromise the claim if paying off the claim is too much of a burden on the household. In addition, the average claim established in fiscal year 1999 is $427. We do not believe that collecting this claim, especially in installments, is a severe burden. Finally, involuntary allotment reduction is already capped at 20 percent or $20 for IPV claims and 10 percent or $10 for IHE and AE claims. Based on the above, the final rule remains unchanged.

Interstate Claims

The proposed rule at § 273.18(k) required that State agencies accept transfers of claims from other State agencies if it is discovered that the household is receiving food stamp benefits within the receiving State. A total of 17 comments were received regarding this proposal. While all commenters agreed with retaining this proposal (at least) as an option, 15 of the commenters did not support making this proposal a requirement. Six commenters stated that frequent moves by recipients and the absence of a national recipient database make this proposal difficult to manage. In addition, seven commenters expressed concerns with problems associated with fair hearing procedures and coordination involving interstate claims.

We recognize that differences among State agencies and the absence of a national recipient database does make this proposal difficult to manage. In addition, we also recognize that the advent of the Treasury Offset Program has made the collection of interstate claims for the originating State agency much easier. Therefore, we are dropping this proposal from the final rule. Transferring claims between States will remain an option. Even though this will remain an option, we strongly encourage State agencies to work together to utilize this procedure as much as possible.

Providing Refunds for Overpaid Claims

In the proposed rule, a State agency is to provide a refund to the household for an overpaid claim as soon as possible after the State agency becomes aware of the overpayment. Four commenters recommended that ''as soon as possible'' be defined as 30 days. We agree with the commenters that a refund needs to be prompt. However, the existing language already requires the State agency to do everything within its control to provide a prompt refund. Therefore, the final rule remains unchanged. (See § 273.18(h)).

Retention Rates

Prior to PRWORA, the retention rates for collections by a State agency were 50 percent for IPV claims and 25 percent for IHE claims. Section 844 of the PRWORA changed these rates by amending section 16(a) of the FSA (7 U.S.C. 2025(a)). The new rates are 35 percent for IPVs and 25 percent for IHEs. The proposed rule reflected this change.

Eight State agencies opposed this reduction to the retention rates. In addition, one State agency recommended a 10 percent retention for AE claims. We recognize the effects of the lower retention rates on State agencies. However, since these percentages are set by legislation, we cannot change the rates. As a result, the final rule contains the lower rates mandated by Congress. (See § 273.18(k)).

The proposed rule also authorized 35 percent retention for IHE collections via UCB offset. One State agency recommended that State agencies have an option to retain either 35 percent or 20 percent for these collections. Programming costs to separately track these collections, according to the State agency, outweigh the additional revenue generated by the higher retention rate. We understand the State agency's concern. However, since this percentage is set by legislation, we cannot change this rate. The final rule remains unchanged.

Bankruptcy

The current regulations at 7 CFR 273.18(k) authorize State agencies to act on our behalf when households file for bankruptcy. We did not propose any changes to this policy. Two State agencies did, however, submit comments on bankruptcy.

Can IPV claims be discharged because of bankruptcy?

On March 24, 1998, the Supreme Court in *Cohen* v. *de la Cruz*, 523 U.S. 213 (1998), ruled that a fraud debt cannot discharged in bankruptcy. One State agency asked whether this ruling applies to IPV claims.

The answer to this inquiry depends on how the IPV was initially determined. As discussed earlier in this preamble, there are four ways that State agencies determine IPVs: (1) An ADH, (2) a court hearing, (3) a signed waiver to an ADH and (4) a disqualification consent agreement (DCA). If the IPV was determined through a court hearing or an ADH then we believe that this is a finding of actual fraud and the Cohen decision would apply. Whether this finding of actual fraud applies to the signed ADH waiver or the DCA depends on whether the affected individual is admitting to committing fraud or guilt when he or she signs the document. Our current regulations at 7 CFR 273.16 allow for individuals to accept disqualifications without admitting guilt. In these instances, we believe that, since there is no actual fraud determination, the resulting IPV claim may potentially be dischargeable in a

bankruptcy proceeding. Since this determination must be made on a claim-by-claim basis, being dependent on State-developed notices, we are not specifying any set policy in this final rule.

Why can't food stamp recipient claims be routinely excluded from bankruptcy?

One State agency asked why recipient claims cannot be routinely excluded from bankruptcy like other Federal debts. In view of the complexities involved, we will be examining this issue more closely and address it in a future rulemaking.

Accounting Procedures

Accounting procedures for State agencies to follow for recipient claims were outlined in § 273.18(o) of the proposed rule (63 FR 29329). States use these procedures to obtain the summarized data to be reported on the *Status of Claims Against Households* (FNS–209) report. We received one comment on reporting this data.

How will these new procedures affect the FNS–209 report?

One State agency objects to any additional reporting requirements. The commenter also believes that the FNS–209 needs to be modified to capture the appropriate data and there should be no redundant reporting of data.

The FNS–209 is being revised to reflect the changes brought about by this rule. We will publish a 60-day notice on the new form to provide you with an opportunity to comment. The new FNS–209 will contain only that information that we absolutely need for Federal program management. In addition, there will be no redundancy with any of our other forms or reporting requirements.

Delinquency and Processing Charges

The proposed rule allows for delinquency and processing charges to be charged against households with delinquent claims. We received a number of comments on this issue.

What authority do we have to impose these charges?

One recipient interest group questioned whether imposing these charges on households is authorized by the FSA. The FSA is silent on this issue. The Debt Collection Act of 1982, 31 U.S.C. 3717, as amended, (DCA) allows for a charge to cover the cost of processing or handling a delinquent claim. Since these charges are authorized in the DCA and are not expressly prohibited in the FSA, we are able to include these charges in the final rule.

What do we mean by imposing processing charges on households?

Three commenters questioned the appropriateness of this provision. The commenters believed that imposing these charges is an unfair and unnecessary burden on recipients. Two of the commenters stated that imposing processing charges on recipients was not cost effective and placed an additional burden on State agencies.

We want to clarify that the only charges authorized by this final rule are the processing charges that are imposed by Treasury for activity connected with the TOP. Since these charges are automatically imposed by Treasury, we have no choice but to accept the existence of these charges. As far as passing these charges onto the household, this provision only affects delinquent claims that are submitted to Treasury. Therefore, any household whose claim remains current will not be affected by additional charges. (See § 273.18(n)(3)).

Treasury's Offset Programs

In the proposed rule, we referred to Treasury's methods of collecting delinquent debts as the ''Federal Claims Collection Methods.'' We are now referring to these methods as Treasury's Offset Programs (TOP), which is consistent with the name used by Treasury. TOP is authorized by the section 3701 of the DCA, as amended by the Debt Collection Improvement Act of 1996, Public Law 104–134, (DCIA).

TOP encompasses several collection methods and approaches. These methods and approaches currently include offsetting Federal payments such as Federal income tax refunds, Federal salary, retirement benefits and other payments. TOP also includes a broad-scope collection effort called cross-servicing.

We began offsetting Federal tax refunds (referred to as FTROP) as a two-State demonstration project in 1992. The program has grown exponentially since that time and FTROP became a permanent collection method in 1995. In calendar year 1998, FTROP collections surpassed $65 million. Like FTROP, Federal salary offset became permanent in 1995. Both FTROP and Federal salary offset were incorporated under TOP with the implementation of DCIA.

The proposed rule introduced administrative offset and cross-servicing into the mix of Federal collection programs under TOP that will affect households and individuals with food stamp recipient claims. Administrative offset is an umbrella name for offsets conducted against Federal payments due to individuals with delinquent debts. An agency in Treasury, the Financial Management Service (FMS), is currently phasing in the implementation of administrative offset. These payments come from a variety of sources, including, with some restrictions, social security and black lung benefits. FMS published a final rule (63 FR 71204) on December 23, 1998, describing what the restrictions will be and how this program will work.

Cross-servicing is a comprehensive collection approach mandated by the DCIA and currently being implemented by Treasury. This approach encompasses administrative offsets as well as vigorously pursuing claims by using other collection actions such as contacting the individual directly and employing collection agencies. Since the best way to implement this provision of the amended DCA is still being determined, we do not include specific instructions or procedures for cross-servicing in this proposed or final rule. However, the specific collection actions used in cross servicing are already authorized by existing agency, Departmental, and Treasury rules. Therefore, we do not believe that any further regulations are necessary to implement cross-servicing.

Changes in Procedures and Inclusion in this Final Rule

TOP has proved to be a dynamic program. Both Treasury's and our procedures are regularly being updated to increase efficiency as well as adapt to the logistics and demands of the program. We did not foresee this degree of change when we originally drafted the proposed rule. We now realize that, because of the dynamic nature of TOP and cross-servicing, any regulation containing prescriptive procedural language on TOP and cross-servicing will soon become obsolete. For this reason, we are taking a different approach in this final rule.

Many of the procedural aspects found in the proposed rule and in the existing regulation at 7 CFR 273.18(g)(5) and (g)(6) are removed from the final rule. The final rule only includes the language necessary to:

(1) Mandate TOP participation;

(2) Follow procedures required by law;

(3) Follow procedures dictated by us and Treasury; and

(4) Protect the rights of households and individuals.

However, this does not mean that State agencies no longer need to follow these procedures. We will be providing these procedures (with any revisions) to

State agencies via memo and similar formats that can be revised as necessary. These procedures will also be available on the Internet, and we welcome the public's comments, questions, and suggestions regarding the procedures. Our Internet address is http://www.usda.gov/fns.

We received a total of 43 comments on TOP. We address all of the comments, including those dealing with the prescriptive procedures that we are not including in this final rule.

Is requiring that State agencies refer all delinquent claims to TOP inconsistent with section 13 of the FSA?

The proposed rule states that a State agency must refer to TOP all claims that are delinquent for at least six months. One commenter believes that this is inconsistent with the FSA. Section 13(b)(1)(C) of the FSA (7 U.S.C. 2022(b)(4)) was amended by PRWORA to provide Federal salary offset and FTROP (now rolled into TOP) as collection methodologies that State agencies may use. Section 13(b)(4) of the FSA (7 U.S.C. 2022(b)(4)) was amended by PRWORA to specify that claims are to be collected in accordance with ''. . . requirements established by the State agency for . . . electing a means of payment. . . .'' The commenter believes that it should be left up to the State agency to determine what claims should be submitted to TOP.

We recognize this language exists in the FSA. However, only delinquent claims are submitted to TOP. The claim would not become delinquent if the State agency was regularly collecting the claim through the other methods. We are tasked by section 4(c) of the FSA (7 U.S.C. 2013(c)) to issue regulations necessary for the effective and efficient administration of the FSP. TOP has proved to be a highly effective and efficient method for collecting delinquent debts. Therefore, we believe that it is within our authority to require that State agencies use TOP for delinquent claims. The final rule remains unchanged. (See § 273.18(n)(1)).

Why do we need to refer AE claims for TOP?

In the proposed rule, claims delinquent for six months or more, including AE claims, must be referred for TOP. One commenter objected to this requirement. According to the commenter, we should not penalize persons who are working and trying to become self-sufficient by taking their tax return and other Federal payments to pay a claim that was the fault of the State agency.

Even though the State agency made the mistake, the household still received more benefits than it was entitled to receive. Section 13(a)(2) of the FSA (7 U.S.C. 2022(a)(2)) clearly states that any overpayment should be pursued. This includes overpayments caused by agency errors. PRWORA amended section 13(b) of the FSA (7 U.S.C. 2022(b)) by removing any restrictions against what involuntary collection methods can be used against AE claims. Since only delinquent claims are referred for TOP, the household has ample opportunity to make arrangements to repay the overpayment prior to the claim becoming delinquent. Therefore, State agencies must refer AE claims for TOP.

When must a State agency remove a debt from the TOP?

Clarification is needed as to when a debt needs to be removed from the TOP. We combine the proposed rule with current policy to reach the following procedure that is reflected in the final rule:

You must remove a debt from TOP if any of the following occurs:

(1) you discover that the debtor is a member of a food stamp household undergoing allotment reduction;

(2) the claim is paid up or the claim is disposed of through a hearing, termination, compromise or any other means;

(3) we or Treasury instruct you to remove the debt;

(4) you discover that the claim was referred in error; or

(5) you make arrangements with the household to resume payments.

We strongly believe that it is improper to keep a debtor in TOP while simultaneously reducing the household's allotment. This is discussed in the *Allotment Reduction* section of this preamble and reflected in § 273.18(n)(4) of this final rule.

Can State agencies submit claims for TOP that are delinquent for less than 180 days?

The proposed rule requires State agencies to refer all claims that are delinquent for 180 days or more to TOP. One State agency proposed that State agencies be allowed to submit claims that are delinquent for less than 180 days.

While this recommendation does have merit, we are hesitant to allow States to submit claims less than 180 days delinquent at this time. The reason for this is that claims referred to TOP incur various processing and collection charges that are passed on to the individual. The six month time frame provides the household and individuals with ample opportunity to pay off the claim without incurring these additional processing and collection charges. The rule remains unchanged. (See § 273.18(n)(1)).

Doesn't TOP remove the ability for State agencies to work with individuals to persuade them to pay regularly?

One State agency commented that requiring claims to be referred to TOP based on our definition of delinquency would impair its ability to persuade clients to pay their claim. We disagree. We believe that, in fact, this will enhance the State agency's ability to secure payment. The threat of referral to TOP will spur, rather than hamper, additional collections. In addition, the State agency is to remove an individual from TOP if it makes arrangements for that person resumes repaying the claim. This is reflected in the final rule at § 273.18(n)(4).

How often are State agencies to submit delinquent claims for TOP?

Section 3716(c)(6) of the DCA requires that State agencies refer to Treasury all claims that are delinquent for more than 180 days. Currently, State agencies submit all delinquent claims at the same time each year to TOP. The proposed rule does not provide specific time frames for this referral. One State agency asked for flexibility in the time frame for submitting claims for TOP. The commenter said that it may be burdensome to submit these claims all at once.

We are currently working with Treasury and State agencies to determine the optimal time frame for all agencies involved in this endeavor. We share the State agency's concern and will try to develop flexible procedures. Our intention is to balance this referral requirement with a State agency's ability to do more frequent submissions. Since this is a procedural rather than a regulatory issue, it is not included in this final rule.

Why can't State agencies combine judgment with non-judgment claims when referring claims to TOP?

A claim reduced to judgment is a claim that is part of a court order. State agencies routinely combine claims for the same individual into one claim for submittal to TOP. In the proposed rule, we do not allow State agencies to combine a claim reduced to judgment with a claim not reduced to judgment. The reason for that is the 10-year limit for referring non-judgment cases.

Since this issue is procedural in nature, we are not including this in the final rule. However, we are currently working with Treasury and State agencies to find a way to accommodate this request.

Do State agencies really need to identify the type of claim when submitting the claim for TOP?

We proposed that State identify the type of claim (IPV, IHE, or AE) when it is referred to TOP. State agencies need to identify the type of claim for retention purposes. Four State agencies responded by stating that this would be a burden and, in some cases, system changes would be needed to comply with this proposal.

We recognize that this may be a problem for some State agencies and, therefore, will not include this as a requirement for TOP referral. Also, since this is procedural rather than regulatory, any further actions regarding this issue will take place outside the realm of these regulations.

Are additional review procedures really needed for salary offset?

In the proposed rule, State agencies must review the records of individuals identified as Federal employees to ensure that the debt is eligible for salary offset. One State agency did not believe that this additional review is necessary. The commenter stated that this activity is already covered when these claims are referred for TOP.

The Office of Personnel Management (OPM) requires that we provide for a hearing upon request of the employee to determine whether Federal salary offset is an appropriate collection method for this individual. We are currently working towards streamlining these procedures as much as possible. However, since this issue is procedural rather than regulatory, the specific procedures will not be included in these regulations.

How does a request for review affect the referral process?

The proposed rule allows for a debtor to request a review before referral of the debt to TOP. One State agency commented that the referral process should not be suspended if the debtor's responses are simply complaints or requests for information. Another State agency stated that stopping the referral is a concern because individuals use this process to circumvent the offset process.

We recognize the commenters' concerns and are in the process of developing a procedure to minimize the effect that a review request will have on TOP referrals. Since this is procedural rather than regulatory, the specific procedure will not be included in these regulations.

Why is the 10-year limit for referral based on the date of the original demand letter rather than on when the claim becomes delinquent?

Currently, the 10-year limit for TOP referral is based on the date of the original demand letter. One State agency recommended that we change this to 10 years from the date of last payment. The 10-year limit for referral is to be based on when the ''right to take action'' for the claim began. This limit is a requirement set forth by Federal law. The first identifiable ''right to take action'' for food stamp recipient claims is the demand letter. Since this is a TOP requirement, we have no choice but to use the limit imposed by Treasury. Also, since this is a procedural issue, we will not be addressing it in this final rule.

Do State agencies really need to use the address provided by Treasury when notifying debtors of their TOP referral?

The proposed rule requires that State agencies use a Treasury-provided address to notice debtors of the intention to refer a claim to TOP. Without such an address and notice, the claim cannot be referred. Currently, Treasury provides addresses for about two-thirds of the potential TOP referrals. Three commenters believe that this is too restrictive. They believe that State agencies should be able to access and use valid addresses from any reliable source.

Since this issue is procedural, we are not including it as part of the final rule. The issue, however, must be resolved. While we share the commenters' concern, overriding due process standards must prevail. Using an accurate address ensures these due process standards are met with respect to being properly delivered. We will work with State agencies and Treasury to develop a standard for addresses that will maximize the number of notices sent while ensuring that the addresses are valid.

Since TOP combines FTROP and Federal salary offset, how do we combine and reconcile the difference between the 60-day FTROP notice and the 30-day Federal salary offset notice?

Currently, we have two different appeal procedures in place for TOP. For most of TOP, the debtor receives one notice and has 60 days to request a review of the claim. For Federal salary offset, on the other hand, the debtor receives a different notice and has 30 days to request a Federal hearing. In the proposed rule, these two notices are being combined. Two State agencies asked how we could resolve the conflict between the two types of hearings as well as between the two time frames (60 versus 30 days) allotted for the debtor to respond.

We recognize this conflict and we are working to develop procedures to resolve this situation. These procedures will be addressed separate from this final rule. However, the final rule will safeguard individual rights by specifying that State agencies must follow our procedures regarding reviews and hearings for TOP. (See § 273.18(n)(2)(ii)).

What happens when a debtor who is about to be referred to TOP alleges to have never received the initial demand letter?

One recipient interest group believes that, in cases where a debtor contacts the State agency and claims he or she never received the initial demand letter, the claim should no longer be considered delinquent. The commenter also recommends that the individual be given another opportunity to request a fair hearing on the merits of the claim.

While we recognize the commenter's concern, a competing concern is that making this a requirement will invite abuse by some debtors to delay the process without good cause. Therefore, we are not including this requirement in the final rule. However, a State agency should provide this opportunity for a debtor where the State agency believes the debtor's assertion is justified.

Are we unjustly imposing a burden of proof on debtors when asking for documentation to dispute the claim?

One recipient interest group felt that the proposed rule at § 273.18(p)(2)(iv)(C)(*3*) unjustly places the burden of proof during a request for review on the debtor to show that the claim is not past due or legally enforceable on the household. That is not our intention. The request for review procedure begins with the State agency initially making the past due and legally enforceable determination based on its own records. Once this is done, the State agency then examines what the debtor submits for the request for review. If what the debtor submits does not show how or why the State agency's original determination is wrong, then the claim is still considered past due and legally enforceable. We do not believe that this in any way places an unreasonable burden on the debtor. We will, however, revise this language in our procedures to make this clearer.

What should be included in the TOP notice?

The proposed rule contains the requirements for the TOP notice. We received 18 comments, mostly from recipient interest groups, on the contents of the proposed notice. These comments are summarized in the following table:

Comments on TOP notice	Number of commenters
1. Citing the legal authorities serves no purpose	1
2. Inform debtor to contact State agency if the debtor is participating and can have the claim collected via allotment reduction	1
3. Include the right and opportunity to review applicable records	5
4. List all TOP exemptions and restrictions	4
5. Include rights of spouse for joint tax return	3
6. Retain information of what is needed when the debtor requests a review	1
7. Retain language providing information on the nature of the claim	3

In view of the procedural changes inherent to TOP, we are not including in this final rule an actual listing of exactly what is to be included in the TOP referral notice. The specific language will be provided to State agencies and will also be included on our aforementioned web page. We will take all of these comments into consideration when developing these procedures. In addition, we encourage feedback suggestions from State agencies, debtors and recipient interest groups once the procedures are released.

What are the changes in transmitting TOP collections to State agencies?

The proposed rule does not describe how we are to transmit collections to State agencies. Two State agencies disagree with a procedural change that has recently been implemented. Under the old method of transferring collections to State agencies, we forwarded all TOP collections. At the end of the quarter, State agencies then returned about 78 percent of these collections back to us. (The remaining 22 percent is what the State agencies collectively retained for collecting the claim.)

Under the new method, we would transmit only 35 percent of TOP collections to the State agency. The 35 percent is the maximum percentage of collections that can be retained. At the end of the reporting quarter, the State agency would then return the remainder (about one-third of the 35 percent) of our funds back to us. The remaining amount, about 22 percent of the total collection, would be the State retention. The only change in procedure is in the actual cash flow. Nothing is changing as far as the actual retention amounts received by the State agencies.

The reason for this procedural change is that the old method for transferring collections is poor cash management. It is simply inappropriate to use Federal funds to provide the State agency with TOP collections, allow the agency to float these funds, and then have the State agency return the same funds to us at the end of the quarter.

Since this is procedural rather than regulatory, this procedure is not included in the regulations.

Doesn't the new transmission procedure affect our ability to timely provide refunds?

Two commenters believed that this new policy would affect their ability to timely process refunds. We disagree. Under the new policy, State agencies will immediately receive 35 percent of the amount collected. Refunds reported to us on the FNS–209 report are only about 1 percent of collections. Therefore, we do not believe that this will affect the State agency's ability to provide refunds.

Implementation

PRWORA set August 22, 1996 as the effective date for the provisions of law relating to recipient claims. We proposed that State agencies implement the discretionary aspects of these regulations no later than the first day of the month 180 days after the publication of the final rule. We received the following comment on the 180-day implementation deadline:

Can the implementation deadline be extended to account for all of the necessary changes in this rule?

One State agency had a suggestion that State agencies be given one year to implement the discretionary changes. The commenter said that one year would be needed to make all of the necessary system changes.

We recognize that the automation resources of many State agencies are stretched because of year 2000 considerations. Therefore, we agree with the State agency. The final rule will extend the deadline for implementation of the discretionary changes to the first day of the month, one year after the publication of this rule.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food Stamps, Fraud, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

Accordingly, 7 CFR parts 272 and 273 are amended as follows:

1. The authority citation for parts 272 and 273 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, add a new paragraph (g)(160) to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) * * *

(160) Amendment 389. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, (PRWORA) set the date of enactment, August 22, 1996, as the effective date for the provisions of the law relating to recipient claims. These non-discretionary provisions of this rule are at § 273.18(c)(1)(ii)(B), § 273.18(f) and § 273.18(g) and are effective retroactive to August 22, 1996. The remaining amendments of this rule are effective and must be implemented no later than August 1, 2000.

§ 272.2 [Amended]

3. In § 272.2:

a. Remove the last sentence of paragraph (a)(2); and

b. Remove paragraph (d)(1)(xii).

§ 272.12 [Removed]

4. Remove § 272.12.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

4. In § 273.2, add paragraph (b)(4) to read as follows:

§ 273.2 Application processing.

* * * * *

(b) *Food Stamp application form.*

* * *

(4) *Privacy Act statement.* As a State agency, you must notify all households applying and being recertified for food stamp benefits of the following:

(i) The collection of this information, including the social security number (SSN) of each household member, is authorized under the Food Stamp Act of 1977, as amended, 7 U.S.C. 2011–2036. The information will be used to determine whether your household is eligible or continues to be eligible to participate in the Food Stamp Program. We will verify this information through computer matching programs. This information will also be used to monitor compliance with program regulations and for program management.

(ii) This information may be disclosed to other Federal and State agencies for official examination, and to law enforcement officials for the purpose of apprehending persons fleeing to avoid the law.

(iii) If a food stamp claim arises against your household, the information on this application, including all SSNs, may be referred to Federal and State agencies, as well as private claims collection agencies, for claims collection action.

(iv) The providing of the requested information, including the SSN of each household member, is voluntary. However, failure to provide this information will result in the denial of food stamp benefits to your household.

* * * * *

5. Revise § 273.18 to read as follows:

§ 273.18 Claims against households.

(a) *General.* (1) A recipient claim is an amount owed because of:

(i) Benefits that are overpaid or

(ii) Benefits that are trafficked. Trafficking is defined in 7 CFR 271.2.

(2) This claim is a Federal debt subject to this and other regulations governing Federal debts. The State agency must establish and collect any claim by following these regulations.

(3) As a State agency, you must develop a plan for establishing and collecting claims that provides orderly claims processing and results in claims collections similar to recent national rates of collection. If you do not meet these standards, you must take corrective action to correct any deficiencies in the plan.

(4) The following are responsible for paying a claim:

(i) Each person who was an adult member of the household when the overpayment or trafficking occurred;

(ii) A sponsor of an alien household member if the sponsor is at fault; or

(iii) A person connected to the household, such as an authorized representative, who actually trafficks or otherwise causes an overpayment or trafficking.

(b) *Types of claims.* There are three types of claims:

An . . .	is . . .
(1) Intentional Program violation (IPV) claim	any claim for an overpayment or trafficking resulting from an individual committing an IPV. An IPV is defined in § 273.16.
(2) Inadvertent household error (IHE) claim	any claim for an overpayment resulting from a misunderstanding or unintended error on the part of the household.
(3) Agency error (AE) claim	any claim for an overpayment caused by an action or failure to take action by the State agency. The only exception is an overpayment caused by a household transacting an untampered expired Authorization to Participate (ATP) card.

(c) *Calculating the claim amount*—(1) *Claims not related to trafficking.*

(i) As a State agency, you		
must calculate a claim . . .	and . . .	and . . .
back to at least twelve months prior to when you become aware of the overpayment.	for an IPV claim, the claim must be calculated back to the month the act of IPV first occurred.	for all claims, don't include any amounts that occurred more than six years before you became aware of the overpayment.

(ii) The actual steps for calculating a claim are		
you . . .	unless . . .	then . . .
(A) determine the correct amount of benefits for each month that a household received an overpayment.		
(B) do not apply the earned income deduction to that part of any earned income that the household failed to report in a timely manner when this act is the basis for the claim.	the claim is an AE claim	apply the earned income deduction.
(C) subtract the correct amount of benefits from the benefits actually received. The answer is the amount of the overpayment.	this answer is zero or negative	dispose of the claim referral.
(D) reduce the overpayment amount by any EBT benefits expunged from the household's EBT benefit account in accordance with your own procedures. The difference is the amount of the claim.	you are not aware of any expunged benefits ..	the amount of the overpayment calculated in paragraph (e)(1)(ii)(C) of this section is the amount of the claim.

(2) *Trafficking-related claims.* Claims arising from trafficking-related offenses will be the value of the trafficked benefits as determined by:

(i) The individual's admission;

(ii) Adjudication; or

(iii) The documentation that forms the basis for the trafficking determination.

(d) *Claim referral management.*

(1) As a State agency, you		
must . . .	and you . . .	unless . . .
establish a claim before the last day of the quarter following the quarter in which the overpayment or trafficking incident was discovered.	will ensure that no less than 90 percent of all claim referrals are either established or disposed of according to this time frame.	you develop and use your own standards and procedures that have been approved by us (see paragraph (d)(2) of this section).

(2) Instead of using the standard in paragraph (d)(1) of this section, you may opt to develop and follow your own plan for the efficient and effective management of claim referrals.

(i) This plan must be approved by us.

(ii) At a minimum, this plan must include:

(A) Justification as to why your standards and procedures will be more efficient and effective than our claim referral standard;

(B) Procedures for the detection and referral of potential overpayments or trafficking violations;

(C) Time frames and procedures for tracking claim referrals through date of discovery to date of establishment;

(D) A description of the process to ensure that these time frames are being met;

(E) Any special procedures and time frames for IPV referrals; and

(F) A procedure to track and follow-up on IPV claim referrals when these referrals are referred for prosecutorial or similar action.

(e) *Initiating collection action and managing claims*—(1) *Applicability.* State agencies must begin collection action on all claims unless the conditions under paragraph (g)(2) of this section apply.

(2) *Pre-establishment cost effectiveness determination.* A State agency may opt not to establish and subsequently collect an overpayment that is not cost effective. The following is our cost-effectiveness policy for State agencies:

(i) You may follow your own cost effectiveness plan and		
opt not to establish any claim if . . .	unless . . .	or . . .
you determine that the claim referral is not cost effective to pursue.	you do not have a cost-effectiveness plan approved by us.	you already established the claim or discovered the overpayment in a quality control review.
(ii) Or you may follow the FNS threshold and		
opt not to establish any claim if . . .	unless . . .	or . . .
you determine that the claim referral is $125 or less.	the household is currently participating in the Program.	you already established the claim or discovered the overpayment in a quality control review.

(3) *Notification of claim.* (i) Each State agency must develop and mail or otherwise deliver to the household written notification to begin collection action on any claim.

(ii) The claim will be considered established for tracking purposes as of the date of the initial demand letter or written notification.

(iii) If the claim or the amount of the claim was not established at a hearing, the State agency must provide the household with a one-time notice of adverse action. The notice of adverse action may either be sent separately or as part of the demand letter.

(iv) The initial demand letter or notice of adverse action must include language stating . . .

(A) The amount of the claim.

(B) The intent to collect from all adults in the household when the overpayment occurred.

(C) The type (IPV, IHE, AE or similar language) and reason for the claim.

(D) The time period associated with the claim.

(E) How the claim was calculated.

(F) The phone number to call for more information about the claim.

(G) That, if the claim is not paid, it will be sent to other collection agencies, who will use various collection methods to collect the claim.

(H) The opportunity to inspect and copy records related to the claim.

(I) Unless the amount of the claim was established at a hearing, the opportunity for a fair hearing on the decision related to the claim. The household will have 90 days to request a fair hearing.

(J) That, if not paid, the claim will be referred to the Federal government for federal collection action.

(K) That the household can make a written agreement to repay the amount of the claim prior to it being referred for Federal collection action.

(L) That, if the claim becomes delinquent, the household may be subject to additional processing charges.

(M) That the State agency may reduce any part of the claim if the agency believes that the household is not able to repay the claim.

(N) A due date or time frame to either repay or make arrangements to repay the claim, unless the State agency is to impose allotment reduction.

(O) If allotment reduction is to be imposed, the percentage to be used and the effective date.

(v) The due date or time frame for repayment must be not later than 30 days after the date of the initial written notification or demand letter.

(vi) Subsequent demand letters or notices may be sent at the discretion of the State agency. The language to be used and content of these letters is left up to the State agency.

(4) *Repayment agreements.* (i) Any repayment agreement for any claim must contain due dates or time frames for the periodic submission of payments.

(ii) The agreement must specify that the household will be subject to involuntary collection action(s) if payment is not received by the due date and the claim becomes delinquent.

(5) *Determining Delinquency.* (i) Unless specified in paragraph (e)(5)(iv) of this section, a claim must be considered delinquent if:

(A) The claim has not been paid by the due date and a satisfactory payment arrangement has not been made; or

(B) A payment arrangement has been established and a scheduled payment has not been made by the due date.

(ii) The date of delinquency for a claim covered under paragraph (e)(5)(i)(A) of this section is the due date on the initial written notification/demand letter. The claim will remain delinquent until payment is received in full, a satisfactory payment agreement is negotiated, or allotment reduction is invoked.

(iii) The date of delinquency for a claim covered under paragraph (e)(5)(i)(B) of this section is the due date of the missed installment payment. The claim will remain delinquent until payment is received in full, allotment reduction is invoked, or if the State agency determines to either resume or re-negotiate the repayment schedule.

(iv) A claim will not be considered delinquent if another claim for the same household is currently being paid either through an installment agreement or allotment reduction and you, as a State agency, expect to begin collection on the claim once the prior claim(s) is settled.

(v) A claim is not subject to the requirements for delinquent debts if the State agency is unable to determine delinquency status because collection is coordinated through the court system.

(6) *Fair hearings and claims.* (i) A claim awaiting a fair hearing decision must not be considered delinquent.

(ii) If the hearing official determines that a claim does, in fact, exist against the household, the household must be re-notified of the claim. The language to be used in this notice is left up to the State agency. The demand for payment may be combined with the notice of the hearing decision. Delinquency must be based on the due date of this subsequent notice and not on the initial pre-hearing demand letter sent to the household.

(iii) If the hearing official determines that a claim does not exist, the claim is disposed of in accordance with paragraph (e)(8) of this section.

(7) *Compromising claims.* (i) As a State agency, you may compromise a claim or any portion of a claim if it can be reasonably determined that a household's economic circumstances dictate that the claim will not be paid in three years.

(ii) You may use the full amount of the claim (including any amount compromised) to offset benefits in accordance with § 273.17.

(iii) You may reinstate any compromised portion of a claim if the claim becomes delinquent.

(8) *Terminating and writing-off claims*–(i) *A terminated claim* is a claim in which all collection action has ceased. A *written-off claim* is no longer considered a receivable subject to continued Federal and State agency collection and reporting requirements.

(ii) The following is our claim termination policy:

As a State agency, if . . .	Then you . . .	Unless . . .
(A) you find that the claim is invalid	must discharge the claim and reflect the event as a balance adjustment rather than a termination.	it is appropriate to pursue the overpayment as a different type of claim (e.g., as an IHE rather than an IPV claim).
(B) all adult household members die	must terminate and write-off the claim	you plan to pursue the claim against the estate.
(C) the claim balance is $25 or less and the claim has been delinquent for 90 days or more.	must terminate and write-off the claim	other claims exist against this household resulting in an aggregate claim total of greater than $25.
(D) you determine it is not cost effective to pursue the claim any further.	must terminate and write-off the claim	we have not approved your overall cost-effectiveness criteria.
(E) the claim is delinquent for three years or more.	must terminate and write-off the claim	you plan to continue to pursue the claim through Treasury's Offset Program.
(F) you cannot locate the household	may terminate and write-off the claim.	
(G) a new collection method or a specific event (such as winning the lottery) substantially increases the likelihood of further collections.	may reinstate a terminated and written-off claim.	you decide not to pursue this option.

(f) *Acceptable forms of payment.*

You may collect a claim by:	However . . .
(1) Reducing benefits prior to issuance. This includes allotment reduction and offsets to restored benefits.	You must follow the instructions and limits found in paragraphs (g)(1) and (g)(3) of this section.
(2) Reducing benefits after issuance. These are benefits from electronic benefit transfer (EBT) accounts.	You must follow the instructions and limits found in paragraph (g)(2) of this section.
(3) Accepting cash or any of its generally accepted equivalents. These equivalents include check, money order, and credit or debit cards.	You do not have to accept credit or debit cards if you do not have the capability to accept these payments.
(4) Accepting paper food coupons	You must destroy any coupons or coupon books that are not returned to inventory and document as appropriate.
(5) Conducting your own offsets and intercepts. This includes but is not limited to wage garnishments and intercepts of various State payments. These collections are considered ''cash'' for FNS claim accounting and reporting purposes.	You must follow any limits that may apply in paragraph (g) of this section.
(6) Requiring the household to perform public service	This form of payment must be ordered by a court and specifically be in lieu of paying any claim.
(7) Participating in the Treasury collection programs	You must follow the procedures found in paragraph (n) of this section.

(g) *Collection methods.*

(1) *Allotment reduction.* The following is our allotment reduction policy:

As a State agency, you must . . .	Unless . . .
(i) Automatically collect payments for any claim by reducing the amount of monthly benefits that a household receives.	the claim is being collected at regular intervals at a higher amount or another household is already having its allotment reduced for the same claim (see paragraph (g)(1)(vi) of this section).
(ii) For an IPV claim, limit the amount reduced to the greater of $20 per month or 20 percent of the household's monthly allotment or entitlement.	the household agrees to a higher amount.
(iii) For an IHE or AE claim, limit the amount reduced to the greater of $10 per month or 10 percent of the household's monthly allotment.	the household agrees to a higher amount.
(iv) Not reduce the initial allotment when the household is first certified	the household agrees to this reduction.
(v) Not use additional involuntary collection methods against individuals in a household that is already having its benefit reduced.	the additional payment is voluntary; or the source of the payment is irregular and unexpected such as a State tax refund or lottery winnings offset.
You may . . .	
(vi) Collect using allotment reduction from two separate households for the same claim. However, you are not required to perform this simultaneous reduction.	
(vii) Continue to use any other collection method against any individual who is not a current member of the household that is undergoing allotment reduction.	

(2) *Benefits from EBT accounts.* (i) As a State agency, you must allow a household to pay its claim using benefits from its EBT benefit account.

(ii) You must comply with the following EBT benefit claims collection and adjustment requirements:

(A) For collecting from active (or reactivated) EBT benefits . . .		
You . . .	or . . .	and . . .
need written permission which may be obtained in advance and done in accordance with paragraph (g)(2)(iv) of this section;.	oral permission for one time reductions with you sending the household a receipt of the transaction within 10 days.	the retention rules do apply to this collection.
(B) For collecting from stale EBT benefits . . .		
You . . .	and . . .	and . . .
must mail or otherwise deliver to the household written notification that you intend to apply the benefits to the outstanding claim.	give the household at least 10 days to notify you that it doesn't want to use these benefits to pay the claim.	the retention rules apply to this collection.
(C) For making an adjustment with expunged EBT benefits . . .		
You . . .	and . . .	and . . .
must adjust the amount of any claim by subtracting any expunged amount from the EBT benefit account for which you become aware.	this can be done anytime	the retention rules do not apply to this adjustment.

(iii) A collection from an EBT account must be non-settling against the benefit drawdown account.

(iv) At a minimum, any written agreement with the household to collect a claim using active EBT benefits must include:

(A) A statement that this collection activity is strictly voluntary;

(B) The amount of the payment;

(C) The frequency of the payments (i.e., whether monthly or one time only);

(D) The length (if any) of the agreement; and

(E) A statement that the household may revoke this agreement at any time.

(3) *Offsets to restored benefits.* You must reduce any restored benefits owed to a household by the amount of any outstanding claim. This may be done at any time during the claim establishment and collection process.

(4) *Lump sum payments.* You must accept any payment for a claim whether it represents full or partial payment. The payment may be in any of the acceptable formats.

(5) *Installment payments.* (i) You may accept installment payments made for a claim as part of a negotiated repayment agreement.

(ii) As a household, if you fail to submit a payment in accordance with the terms of your negotiated repayment schedule, your claim becomes delinquent and it will be subject to additional collection actions.

(6) *Intercept of unemployment compensation benefits.* (i) As a State agency, you may arrange with a liable individual to intercept his or her unemployment compensation benefits for the collection of any claim. This collection option may be included as part of a repayment agreement.

(ii) You may also intercept an individual's unemployment compensation benefits by obtaining a court order.

(iii) You must report any intercept of unemployment compensation benefits

as ''cash'' payments when they are reported to us.

(7) *Public service.* If authorized by a court, the value of a claim may be paid by the household performing public service. As a State agency, you will report these amounts in accordance with our instructions.

(8) *Other collection actions.* You may employ any other collection actions to collect claims. These actions include, but are not limited to, referrals to collection and/or other similar private and public sector agencies, state tax refund and lottery offsets, wage garnishments, property liens and small claims court.

(9) *Unspecified joint collections.* When an unspecified joint collection is received for a combined public assistance/food stamp recipient claim, each program must receive its pro rata share of the amount collected. An unspecified joint collection is when funds are received in response to correspondence or a referral that contained both the food stamp and other program claim(s) and the debtor does not specify to which claim to apply the collection.

(h) *Refunds for overpaid claims.* (1) As a household, if you overpay a claim, the State agency must provide a refund for the overpaid amount as soon as possible after the State agency finds out about the overpayment. You will be paid by whatever method the State agency deems appropriate considering the circumstances.

(2) You are not entitled to a refund if the overpaid amount is attributed to an expunged EBT benefit.

(i) *Interstate claims collection.* (1) Unless a transfer occurs as outlined in paragraph (i)(2) of this section, as a State agency, you are responsible for initiating and continuing collection action on any food stamp recipient claim regardless of whether the household remains in your State.

(2) You may accept a claim from another State agency if the household with the claim moves into your State. Once you accept this responsibility, the claim is yours for future collection and reporting. You will report interstate transfers to us in accordance with our instructions.

(j) *Bankruptcy.* A State agency may act on our behalf in any bankruptcy proceeding against a bankrupt household with outstanding recipient claims.

(k) *Retention rates.* (1) The retention rates for State agencies are as follows:

If you collect an . . .	then the retention rate is . . .
(i) IPV claim	35 percent.
(ii) IHE claim	20 percent.
(iii) IHE claim by reducing a person's unemployment compensation benefit	35 percent.
(iv) AE claim	nothing.

(2) These rates do not apply to any reduction in benefits when you disqualify someone for an IPV.

(l) *Submission of payments to us.* A State agency must send us the value of funds collected for IHE, IPV or AE claims according to our instructions. We must pay you for claims collection retention by electronic funds transfer.

(m) *Accounting procedures.* (1) As a State agency, you must maintain an accounting system for monitoring recipient claims against households. This accounting system shall consist of both the system of records maintained for individual debtors and the accounts receivable summary data maintained for these debts.

(2) At a minimum, the accounting system must document the following for each claim:

(i) The date of discovery;

(ii) The reason for the claim;

(iii) The calculation of the claim;

(iv) The date you established the claim;

(v) The methods used to collect the claim;

(vi) The amount and incidence of any claim processing charges;

(vii) The reason for the final disposition of the claim;

(viii) Any collections made on the claim;

(ix) Any correspondence, including follow-up letters, sent to the household.

(3) At a minimum, your accounting or certification system must also identify the following for each claim:

(i) Those households whose claims have become delinquent;

(ii) Those situations in which an amount not yet restored to a household can be used to offset a claim owed by the household; and

(iii) Those households with outstanding claims that are applying for benefits.

(4) When requested and at intervals determined by us, your accounting system must also produce:

(i) Accurate and supported outstanding balances and collections for established claims; and

(ii) Summary reports of the funds collected, the amount submitted to FNS, the claims established and terminated, any delinquent claims processing charges, the uncollected balance and the delinquency of the unpaid debt.

(5) On a quarterly basis, unless otherwise directed by us, your accounting system must reconcile summary balances reported to individual supporting records.

(n) *Treasury's Offset Programs (TOP).*

(1) *Referring debts to TOP.* (i) As a State agency, you must refer to TOP all recipient claims that are delinquent for 180 or more days.

(ii) You must certify that all of these claims to be referred to TOP are 180 days delinquent and legally enforceable.

(iii) You must refer these claims in accordance with our and the Department of the Treasury's (Treasury) instructions.

(iv) You must not refer claims to TOP that:

(A) You become aware that the debtor is a member of a participating household that is having its allotment reduced to collect the claim; or

(B) Fall into any other category designated by us as non-referable to TOP.

(2) *Notifying debtors of referral to TOP.* (i) As a State agency, you must notify the debtor of the impending referral to TOP according to our instructions relating to:

(A) What constitutes an adequate address to send the notice;

(B) What specific language will be included in the TOP referral notice;

(C) What will be the appropriate time frames and appeal rights; and

(D) Any other information that we determine necessary to fulfill all due process and other legal requirements as well as to adequately inform the debtor of the impending action.

(ii) You must also follow our instructions regarding procedures connected with responding to inquiries, subsequent reviews and hearings, and any other procedures determined by us as necessary in the debtor notification process.

(3) *Effect on debtors.* (i) If you, as a debtor, have your claim referred to TOP,

any eligible Federal payment that you are owed may be intercepted through TOP.

(ii) You may also be responsible for paying any collection or processing fees charged by the Federal government to intercept your payment.

(4) *Procedures when a claim is in TOP.* (i) As a State agency, you must follow FNS and Treasury procedures when the claim is in TOP.

(ii) You must remove a claim from TOP if:

(A) FNS or Treasury instruct you to remove the debt; or

(B) You discover that:

(*1*) The debtor is a member of a food stamp household undergoing allotment reduction;

(*2*) The claim is paid up;

(*3*) The claim is disposed of through a hearing, termination, compromise or any other means;

(*4*) The claim was referred to TOP in error; or

(*5*) You make an arrangement with the debtor to resume payments.

(5) *Receiving and reporting.* As a State agency, you must follow our procedures on receiving and reporting TOP payments.

(6) *Security or confidentiality agreements.* As a State agency, you must follow our procedures regarding any security or confidentiality agreements or processes necessary for TOP participation.

Dated: June 21, 2000.

Shirley R. Watkins,

Under Secretary, Food, Nutrition and Consumer Services.

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Federal Register

Thursday,
July 6, 2000

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Wintering Piping Plovers; Proposed Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG13

Endangered and Threatened Wildlife and Plants; Proposed Determination of Critical Habitat for Wintering Piping Plovers

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to designate 146 areas along the coasts of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, and Texas as critical habitat for the wintering population of the piping plover (*Charadrius melodus*). This includes approximately 2,691 kilometers (1,672 miles) of shoreline along the Gulf and Atlantic coasts and along margins of interior bays, inlets, and lagoons.

The population of piping plovers that breeds in the Great Lakes States is listed as endangered, while all other piping plovers are threatened species under the Endangered Species Act of 1973, as amended (Act). All piping plovers are considered threatened species under the Act when on their wintering grounds. Critical habitat identifies specific areas that are essential to the conservation of a listed species, and that may require special management considerations or protection. The primary constituent elements for the piping plover are those habitat components that are essential for the primary biological needs of foraging, sheltering, and roosting.

This proposed rule, if made final, would result in additional review requirements under section 7 of the Act. Federal agencies may not fund, authorize, license, permit, or carry out an action that would destroy or adversely modify critical habitat. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicit data and comments from the public on all aspects of this proposal, including data on the economic and other impacts of the designation. We may revise this proposal to incorporate or address new information received during the comment period.

DATES: *Comments:* We will consider comments received by September 5, 2000. Nine public hearings are scheduled for this proposal.

Public Hearings: We have scheduled nine public hearings for this proposal. See **SUPPLEMENTARY INFORMATION** section for hearing dates and addresses.

Public information meetings will be held prior to each public hearing at the hearing location. The public information sessions will start at 5 p.m. and continue through the ends of the hearings. The public hearings will start at 7 p.m. and end at 9 p.m.

ADDRESSES: Send written comments and other materials concerning this proposal to Lee Elliott, Corpus Christi Ecological Services Field Office, U.S. Fish and Wildlife Service, c/o TAMU–CC, Campus Box 338, 6300 Ocean Drive, Corpus Christi, TX 78412, (361)994–9005 or e-mail to winterplovercomments@fws.gov. The complete file for this proposed rule will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Serota, Field Supervisor, at the above address (telephone 361/994–9005; facsimile 361/994–8262; email tom_serota@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

Description

The piping plover (*Charadrius melodus*), named for its melodic mating call, is a small, pale-colored North American shorebird. It weighs 43–63 grams (1.5–2.25 ounces) and is 17–18 centimeters (cm) (about 8 inches) long (Haig 1992). Its light sand-colored plumage blends in well with the beach and sand flats, part of its primary habitat. During the breeding season, the legs are bright orange, and the short stout bill is orange with a black tip. There are two single dark bands, one around the neck and one across the forehead between the eyes. Plumage and leg color help distinguish this bird from other plovers. In winter, the bill turns black, the legs remain orange but pale, and the black plumage bands on the head and neck are lost. Chicks have speckled gray, buff, and brown down, black beaks, orange legs, and a white collar around the neck. Juveniles resemble wintering adults and obtain their adult plumage the spring after they fledge (Prater *et al.* 1977).

Range and Biology

Piping plovers breed in three discrete areas of North America: the Northern Great Plains, the Great Lakes, and the Atlantic Coast. The Northern Great Plains breeding sites range from Alberta to Ontario, Canada, south to Kansas and Colorado. While Great Lakes breeding sites once ranged throughout the Great Lakes region, recent nesting records are limited to Michigan and Wisconsin. Atlantic Coast breeding sites range from Newfoundland, Canada, to North Carolina. Generally, piping plovers favor open sand, gravel, or cobble beaches for breeding. Breeding sites are generally found on islands, lake shores, coastal shorelines, and river margins.

Piping plovers winter in coastal areas of the United States from North Carolina to Texas. They also winter along the coast of eastern Mexico and on Caribbean islands from Barbados to Cuba and the Bahamas (Haig 1992). The international piping plover winter censuses of 1991 and 1996 located only 63% and 42% of the estimated number of breeding birds, respectively (Haig and Plissner 1993, Plissner and Haig 1997). Of the birds located on the wintering grounds during these two censuses, 89% were found on the Gulf Coast of the United States and 8% were found on the Atlantic Coast of the United States. Information from observation of color-banded piping plovers indicates that the winter ranges of the breeding populations overlap to a significant degree. Therefore, the source breeding population of a given wintering individual cannot be determined in the field unless it has been banded or otherwise marked.

Piping plovers begin arriving on the wintering grounds in July, with some late-nesting birds arriving in September. A few individuals can be found on the wintering grounds throughout the year, but sightings are rare in late May, June, and early July. Migration is poorly understood, but most piping plovers probably migrate non-stop from interior breeding areas to wintering grounds (Haig 1992). However, concentrations of spring and fall migrants have been observed along the Atlantic Coast (USFWS 1996).

Behavioral observations of piping plovers on the wintering grounds suggest that they spend the majority of their time foraging (Nicholls and Baldassarre 1988; Drake 1999a, 1999b). Primary prey for wintering plovers includes polychaete marine worms, various crustaceans, insects, and occasionally bivalve mollusks (Nicholls 1989; Zonick and Ryan 1995), which they peck from on top or just beneath the surface. Foraging usually takes place on moist or wet sand, mud, or fine shell. In some cases, this substrate may be covered by a mat of blue-green algae. When not foraging, plovers undertake various maintenance activities including roosting, preening, and bathing, aggressive encounters (with other piping plovers and other species)

and moving among available habitat locations.

The habitats used by wintering birds include beaches, mud flats, sand flats, algal flats, and washover passes (areas where breaks in the sand dunes result in an inlet). Individual plovers tend to return to the same wintering sites year after year (Nicholls and Baldassarre 1990, Drake 1999a). Wintering plovers are dependent on a mosaic of habitat patches, and move among these patches depending on local weather and tidal conditions. One study of 48 wintering piping plovers in south Texas (Drake 1999a) found a mean home range size (based on a 95% distribution) of 1,262 hectares (ha) (3,117 acres (ac)), with a mean distance moved per individual (averaged across seasons) of more than 3 kilometers (km) (about 2 miles (mi)) for the fall through the spring of 1997–1998.

In late February, piping plovers begin leaving the wintering grounds to migrate back to breeding sites. Northward migration peaks in late March, and by late May most birds have left the wintering grounds (Eubanks 1994).

Population Status

In recent decades, piping plover populations have declined drastically, especially in the Great Lakes area. In the early 1900s, uncontrolled hunting drove them nearly to extinction. Protective legislation helped them to recover by 1925, and populations reached a high in the 1930s (USFWS 1994). These numbers soon plummeted, though, as recreational use of beaches increased. Plover numbers continued to decline in the 1940s and 1950s as shoreline development expanded, resulting in the loss of plover breeding habitat. River flow alteration, channelization, and reservoir construction have also led to loss of breeding habitat.

In 1973, the piping plover was placed on the National Audubon Society's Blue List of threatened species. By that time, the Great Lakes population of piping plovers had been extirpated from shoreline beaches in Illinois, Indiana, Ohio, New York, Pennsylvania, and Ontario, and only a few birds continued to nest in Wisconsin (Russell 1983). At the time the species was listed under the Endangered Species Act in 1985, the Great Lakes population numbered only 17 known breeding pairs, and the breeding areas had been reduced from sites in eight States to only northern Michigan (Stucker and Cuthbert, unpublished data). In recent years, the Great Lakes population has gradually increased and expanded to the south and west as a result of intensive conservation measures. Recent increases in the Atlantic Coast breeding population have also been attributed to intensive management and monitoring of nesting beaches. While overall the Atlantic Coast population is increasing, increases are regionally variable with some areas experiencing declining populations. On the other hand, breeding census results show a marked decline of the population breeding in the Northern Great Plains of the United States (Plissner and Haig 1997).

Previous Federal Actions

On December 30, 1982, we published a notice of review in the **Federal Register** (47 FR 58454) that identified vertebrate animal taxa being considered for addition to the List of Threatened and Endangered Wildlife. The notice included the piping plover as a Category 2 Candidate species, indicating that we believed the species might warrant listing as threatened or endangered, but that we had insufficient data to support a listing at that time. Subsequent review of additional data indicated that the piping plover warranted listing, and in November 1984, a proposal to list the piping plover as endangered and threatened was published in the **Federal Register** (49 FR 44712).

The proposed listing was based on the decline of the species and the existing threats, including habitat destruction, disturbance by humans and pets, high levels of predation, and contaminants. On December 11, 1985, the final rule was published (50 FR 50720), listing the piping plover as endangered in the Great Lakes watershed (Illinois, Indiana, Michigan, northeastern Minnesota, New York, Ohio, Pennsylvania, Wisconsin, and Ontario) and as threatened elsewhere within its range. All piping plovers on migratory routes outside of the Great Lakes watershed or on their wintering grounds are considered threatened. We did not designate critical habitat for the species at that time.

In 1986, two recovery teams were appointed to develop recovery plans for the piping plovers breeding in the Atlantic Coast States and those breeding in the Great Lakes/Northern Great Plains region. We published those plans in 1988 (USFWS 1988a, 1988b). In 1994, we began to revise the plan for the Great Lakes/Northern Great Plains plovers by developing and distributing for public comment a draft that included updated information on the species. More recently, we decided that the recovery of these two regional populations would benefit from separate recovery plans that would direct separate recovery programs. Separate recovery plans for the Great Lakes and Northern Great Plains piping plovers are presently under development. The recovery plan for the Atlantic Coast-breeding plovers was revised in 1996 (USFWS 1996).

In December 1996, Defenders of Wildlife (Defenders) filed a lawsuit against the Department of the Interior and the Service for failing to designate critical habitat for the Great Lakes population of the piping plover. Defenders filed a second similar lawsuit for the Northern Great Plains piping plover population in 1997. These lawsuits were subsequently combined (*Defenders of Wildlife et al.* v. *Bruce Babbitt et al.*, Consolidated Cases Civil No. 1:96–CV–02695AER and Civil No. 1:97–CV00777AER). In February 2000, the court issued an order directing us to publish a proposed critical habitat designation for the Great Lakes population of the piping plover by June 30, 2000. Publication of a similar proposal for nesting areas of the Northern Great Plains population of piping plover by May 31, 2001, was also ordered. A subsequent order, after requesting the court to reconsider its original order relating to final critical habitat designation, directs us to finalize the critical habitat designations for the Great Lakes population by April 30, 2001, and for the Northern Great Plains population by March 15, 2002.

Since we cannot distinguish the Great Lakes and Great Plains birds on their wintering grounds, we felt it was appropriate to propose critical habitat for all U.S.-wintering piping plovers collectively. Further, we determined that the appropriate course of action would be to propose critical habitat for all U.S.-wintering piping plovers on the same schedule required, under court order, for the Great Lakes breeding population.

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 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 an endangered or threatened species to the point at which listing under the Act is no longer necessary. Thus, critical habitat areas should provide sufficient habitat to

support the species at the population level and geographic distribution that are necessary for recovery. Proposed critical habitat for the wintering population of the piping plover includes areas that we know currently support the species, and also areas for which census data may be lacking but which contain habitat essential for the conservation of the species.

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when the benefits of excluding those areas outweigh the benefits of including the areas within the critical habitat, providing the exclusion will not result in the extinction of the species.

Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species. Designation of critical habitat alerts the public as well as land-managing agencies to the importance of these areas.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat by actions carried out, funded, or authorized by a Federal agency. Section 7 also requires conferences on Federal actions that are likely to result in the adverse modification or destruction of proposed critical habitat. Aside from the protection that may be provided under section 7, the Act does not provide other forms of protection to lands designated as critical habitat. Because consultation under section 7 of the Act does not apply to activities on private or other non-Federal land that do not involve a Federal action, critical habitat designation would not afford any protection under the Act against such activities on these lands.

Designating critical habitat does not, in itself, lead to the recovery of a listed species. The designation does not establish a reserve, create a management plan, establish numerical population goals, prescribe specific management practices (inside or outside of critical habitat), or directly affect areas not designated as critical habitat. Specific management recommendations for areas designated as critical habitat are most appropriately addressed in recovery and management plans, and through section 7 consultation and section 10 permits.

Critical habitat identifies specific areas that are essential to the conservation of a listed species and that may require special management considerations or protections. Areas described in the approved recovery plans (USFWS 1988, 1996) as essential to the conservation of the wintering population of the piping plover are proposed as critical habitat, if recent data supported consistent use and habitat remains suitable. However, the recovery plans did not have available the most recent comprehensive winter survey data and did not identify all possible areas essential to the survival and recovery of the species. Thus, we identified additional areas essential to the species' conservation.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we are required to base critical habitat determinations on the best scientific and commercial data available and to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations and protection. Such requirements include, but are not limited to, space for individual and population growth, and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The primary constituent elements essential for the conservation of wintering piping plovers are those habitat components that support foraging, roosting, and sheltering and the physical features necessary for maintaining the natural processes that support these habitat components. The primary constituent elements are found in geologically dynamic coastal areas that support or have the potential to support intertidal beaches and flats (between annual low tide and annual high tide) and associated dune systems and flats above annual high tide.

Important components of intertidal flats include sand and/or mud flats with no or very sparse emergent vegetation. In some cases, these flats may be covered or partially covered by a mat of blue-green algae. Adjacent unvegetated or sparsely vegetated sand, mud, or algal flats above high tide are also important, especially for roosting piping plovers. Such sites may have debris, detritus (decaying organic matter), or micro-topographic relief (less than 50 cm above substrate surface) offering refuge from high winds and cold weather. Important components of the beach/dune ecosystem include surf-cast algae, sparsely vegetated backbeach (beach area above mean high tide seaward of the dune line, or in cases where no dunes exist, seaward of a delineating feature such as a vegetation line, structure, or road), spits, and washover areas. Washover areas are broad, unvegetated zones with little or no topographic relief, that are formed and maintained by the action of hurricanes, storm surge, or other extreme wave action. Several of these components (sparse vegetation, little or no topographic relief) are mimicked in artificial habitat types used less commonly by piping plovers (*e.g.*, dredge spoil sites).

These habitat components are a result of the dynamic geological processes that dominate coastal landforms throughout the wintering range of piping plovers. These geologically dynamic coastal regions are controlled by processes of erosion, accretion, succession, and sea-level change. The integrity of the habitat components depends upon daily tidal events and regular sediment transport processes, as well as episodic, high-magnitude storm events; these processes are associated with the formation and movement of barrier islands, inlets, and other coastal landforms. By their nature, these features are in a constant state of change; they may disappear, only to be replaced nearby as coastal processes act on these habitats. Given that piping plovers evolved in this dynamic system, and that they are dependent upon these ever-changing features for their continued survival and eventual recovery, our proposed critical habitat boundaries incorporate these natural processes and include sites that we expect will develop appropriate habitat components in the future.

In most areas, wintering piping plovers are dependent on a mosaic of sites distributed throughout the landscape. The annual, daily, and even hourly availability of the habitat patches is dependent on local weather and tidal conditions. For example, a single piping plover may leave a site if it becomes inundated by a high tide or storm event, or if high winds or cold temperatures make the site unsuitable for foraging or roosting. This bird will move to other patches within the landscape mosaic that might provide refuge from inclement weather conditions, or that simply provide a roosting site until conditions become favorable to resume foraging.

Methods

In determining areas that are essential to conserve the wintering population of piping plover, we used the best scientific and commercial data available. We solicited information from knowledgeable biologists and reviewed the available information pertaining to habitat requirements of the species. To map areas essential to the conservation of the species, we used data on known piping plover wintering locations and regional Geographic Information Systems coverages. Sources of data providing these locations include two international piping plover censuses carried out in January of 1991 and 1996, published reports, Christmas Bird Counts, and other data from surveys focusing on shorebird distribution and abundance. Areas that were identified in the approved recovery plans and current draft recovery plans as essential for the recovery of the species were also used to initially identify important areas.

Those areas along the coast for which occurrence data indicate a consistent annual use by piping plovers are included as units in this proposed designation. In some areas, adequate census data are not available to provide reliable presence or absence information for the plover. These areas are in remote locations where censuses are logistically difficult. However, the physical and biological features essential to piping plovers are known to be at least sporadically present in these dynamic areas, and our belief that these areas support piping plovers when essential habitat features are present is biologically sound. In addition, piping plovers are known to change their areas of use with changes in tides and weather, further lending credence to the belief that these areas are at least occasionally used by the species. Thus, we consider these areas essential to the conservation of the species.

Rates of erosion and accretion along the coastal regions within the area considered for designation of critical habitat are highly variable. Simultaneous with shoreline movements are the changes in vegetation and dune structure in these coastal areas. These changes will also result in shifts in the geographic location of primary constituent elements. While the amount of area meeting the description of primary constituent elements will probably change very little over time, its location can vary markedly. In Texas, erosion rates in some areas can be as much as 23 meters (m) (75 feet) per year, while in other areas of the Texas coast, accretion can be occurring at a rate as high as 51 m (167 feet) per year. Changes in the vegetation line along the Texas coast are of a similar order of magnitude (Paine and Morton 1989). The shifting of islands along the Louisiana coast can be extreme. For example, East Timbalier (included in the proposed critical habitat designation) has shifted as much as 2 km (1.2 mi) since 1887 (Louisiana Geological Survey 1992). Erosion in the vicinity of Cape San Blas, Florida, is as much as 9 m (30 feet) per year, and accretion can be as much as 19 m (62 feet) per year (Davis 1997). Likewise, shoreline in the vicinity of Longboat Pass, Florida, has moved 300 m (984 feet) between 1883 and 1970 (Dean 1989). In order to insure that maps adequately capture areas containing primary constituent elements over the foreseeable future, critical habitat boundaries include adjacent areas seaward of areas containing primary constituent elements (to insure capture of accreting shoreline and island shifting) and landward (to insure capture of eroding shorelines and island shifting).

We did not map critical habitat in sufficient detail to exclude all currently developed sites consisting of buildings, marinas, paved areas, boat ramps, and similar structures. These areas do not contain primary constituent elements essential for piping plover conservation, and are not critical habitat even though they are within the mapped boundaries. Designating specific locations for critical habitat for the piping plovers is difficult because the coastal areas they use are constantly changing due to storm surges, flood events, and other natural geo-physical alterations of beaches and shorelines. Areas seaward of the beach and covered by water (e.g., open ocean or bays) will not contain one or more of the primary constituent elements, and are not critical habitat. Because of the dynamics of coastal areas, however, areas now covered by water may in the future become land, and will then under this designation become critical habitat if they fall within the mapped boundaries.

Proposed Critical Habitat Designation/ Land Ownership

The proposed critical habitat areas contained within the conservation units described below constitute our best evaluation of areas needed for the conservation of the wintering piping plover. Proposed critical habitat may be revised should new information become available prior to the final rule, and existing critical habitat may be revised through rulemaking if new information becomes available after the final rule.

Table 1 provides a summary of the land ownership and linear shoreline distances proposed as critical habitat. Table 2 provides land ownership and area measurements. Estimates reflect the total area within the mapped critical habitat conservation unit boundaries, without regard to the presence of primary constituent elements. The area actually affected by this proposal is, therefore, less than that indicated in Table 2.

TABLE 1.—LINEAR SHORELINE DISTANCES MEASURED IN KILOMETERS (MILES) PROPOSED FOR DESIGNATION AS CRITICAL HABITAT FOR WINTERING PIPING PLOVERS, BY STATE (ROWS) AND OWNERSHIP (COLUMNS).

	Federal	State	Private	Total
North Carolina	117 (73)	65 (40)	65 (40	247 (153)
South Carolina	23 (14)	50 (31)	38 (24)	111 (69)
Georgia	53 (33)	76 (47)	30 (19)	159 (99)
Florida	106 (66)	150 (93)	79 (49)	335 (208)
Alabama	14 (9)	23 (14)	59 (37)	96 (60)
Mississippi	98 (61)		113 (70)	211 (131)
Louisiana	100 (62)	169 (105)	282 (175)	551 (342)

TABLE 1.—LINEAR SHORELINE DISTANCES MEASURED IN KILOMETERS (MILES) PROPOSED FOR DESIGNATION AS CRITICAL HABITAT FOR WINTERING PIPING PLOVERS, BY STATE (ROWS) AND OWNERSHIP (COLUMNS).—Continued

	Federal	State	Private	Total
Texas	459 285)	85 (53)	437 (272)	981 (610)
Total	970 (603)	618 (383)	1,103 (686)	2,691 (1,672

TABLE 2.—TOTAL AREA OF UNITS, EXPRESSED AS HECTARES (ACRES), PROPOSED FOR DESIGNATION AS CRITICAL HABITAT FOR WINTERING PIPING PLOVERS, BY STATE (ROWS) AND OWNERSHIP (COLUMNS).

	Federal	State	Private	Total
North Carolina	6,679 (16,504)	15,917 (39,331)	2,635 (6,511)	25,231 (62,346)
South Carolina	1,585 (3,917)	7,147 (17,660)	1,387 (3,427)	10,119 (25,004)
Georgia	2,461 (6,081)	10,357 (25,592)	2,355 (5,819)	15,173 (37,492)
Florida	17,830 (44,058)	56,867 (140,520)	1,696 (4,191)	76,393 (188,767)
Alabama	168 (415)	1,038 (2,565)	1,561 (3,857)	2,767 (6,837)
Mississippi	28,362 (70,083)	18,517 (45,756)	2,549 (6,299)	49,428 (122,138)
Louisiana	51,480 (127,207)	386,746 (955,660)	81,451 (201,268)	519,677 (1,284,136)
Texas	58,758 (145,1913)	69,416 (171,529)	24.872 (71.435)	153,036 (378,156)
Total	167,323 (413,459)	566,005 (1,398,613)	118,496 (292,807)	851,824 (2,104,879)

Lands proposed as critical habitat have been divided into 146 critical habitat conservation units that contain areas with the primary constituent elements for the piping plover in the wintering range of the species. These units are found in all eight States where the piping plover winters. Below we describe each unit in terms of its location, size, and ownership. Sizes of units that include linear stretches of beach are given in kilometers (miles), whereas broader areas, such as barrier islands, are portrayed in hectares (acres).

North Carolina

Unit NC–1: Oregon Inlet. 11.8 km (7.3 mi) of shoreline in Dare County.

This unit is surrounded by Cape Hatteras National Seashore and Pea Island National Wildlife Refuge, but is mostly privately owned. This unit includes lands on either side of Oregon Inlet.

Unit NC–2: Cape Hatteras Point. 13.0 km (8.1 mi) of shoreline in Dare County.

The majority of the unit is within Cape Hatteras National Seashore. This unit extends from the Cape Hatteras Lighthouse to the Fish Dump.

Unit NC–3: Clam Shoals. 4.5 km (2.8 mi) of shoreline in Dare County.

The entire unit is owned by the State. This unit includes several islands in Pamlico Sound known as Bird Islands.

Unit NC–4: Hatteras Inlet. 19.8 km (12.4 mi) of shoreline in Dare and Hyde Counties.

The majority of the unit is surrounded by Cape Hatteras National Seashore, but is privately owned. This unit includes lands from the end of Highway 12 to Green Island on either side of Hatteras Inlet and all of ''Old DOT'' spoil island.

Unit NC–5: Ocracoke Island. 5.9 km (3.7 mi) of shoreline in Hyde County.

The majority of the unit is within Cape Hatteras National Seashore. This unit extends from Ocracoke Island Airport to Ocracoke Inlet.

Unit NC–6: Portsmouth Island-Cape Lookout. 54.6 km (33.9 mi) of shoreline in Carteret County.

The entire unit is within Cape Lookout National Seashore. This unit extends southwest from Ocracoke Inlet, and includes Atlantic shoreline to the west sides of islands on Pamlico Sound. Islands include Casey, Sheep, Portsmouth, Whalebone, Kathryne Jane, and Merkle Hammock Islands. This unit also extends from Old Drum Inlet west to New Drum Inlet and from New Drum Inlet west 1.6 km (1.0 mi).

Unit NC–7: South Core Banks. 17.3 km (10.8 mi) of shoreline in Carteret County.

The entire unit is within Cape Lookout National Seashore. This unit extends from Cape Lookout Lighthouse and includes all of Cape Point.

Unit NC–8: Shackleford Banks. 15.7 km (9.8 mi) of shoreline in Carteret County.

The entire unit is within Cape Lookout National Seashore. This unit is in two parts—the eastern 2.4 km (1.5 mi) of Shackleford Banks, including the islands, and the western-most 3.2 km (2.0 mi) of Shackleford Banks.

Unit NC–9: Rachel Carson. 12.6 km (7.8 mi) of shoreline in Carteret County.

The entire unit is within the Rachel Carson National Estuarine Research Reserve. This unit includes islands south of Beaufort including Horse Island, Carrot Island, and Lennox Point.

Unit NC–10: Bogue Inlet. 6.4 km (4.0 mi) of shoreline in Carteret and Onslow Counties.

The majority of the unit is privately owned, with the remainder falling within Hammocks Beach State Park. This unit extends from the roadless areas on the western end of Bogue Banks, including the sandy shoal islands, to Bogue Inlet and the eastern tip of Bear Island, 1.6 km (1.0 mi) from Bogue Inlet west.

Unit NC–11: Topsail. 13.2 km (8.2 mi) of shoreline in Pender County and Hanover County.

The entire area is privately owned. This unit extends from the east tip (0.4 km (.25 mi)) of Figure Eight Island, northeast to the west tip (0.4 km (.25 mi)) of Topsail Beach. It includes both Rich Inlet and New Topsail Inlet.

Unit NC–12: Figure Eight Island. 6.5 km (4.0 mi) of shoreline in New Hanover County.

The majority of the unit is privately owned. This unit includes the west tip of Figure Eight Island (0.8 km (0.5 mi)), including mudflats northwest of Mason Inlet.

Unit NC–13: Masonboro. 3.3 km (2.1 mi) of shoreline in New Hanover County.

The entire unit is within the NC National Estuarine Research Reserve. This unit includes the northern tip of Masonboro Island.

Unit NC–14: Carolina Beach Inlet. 10.3 km (6.4 mi) of shoreline in New Hanover County.

The majority of the unit is within Crowe Sound on Masonboro Island and is owned by the NC National Estuarine Research Reserve. This unit extends approximately 3.2 km (2.0 mi) north of the inlet to 1.2 km (0.75 mi) south of the inlet.

Unit NC–15: Ft. Fisher. 32.9 km (20.4 mi) of shoreline in New Hanover and Brunswick Counties.

The majority of the unit is within Ft. Fisher State Recreation Area. This unit extends from the Ft. Fisher Islands to south of Old Corn Cake Inlet approximately 0.8 km (0.5 mi) on Smith Island.

Unit NC–16: Lockwood Folly Inlet. 1.8 km (1.1 mi) of shoreline in Brunswick County.

The entire unit is on Oak Island and privately owned. This unit extends from the end of West Beach Drive, west to Lockwood Folly Inlet.

Unit NC–17: Shallotte Inlet. 9.5 km (5.9 mi) of shoreline in Brunswick County.

The entire unit is privately owned. This unit extends from Shallotte Inlet and runs east approximately 2.1 km (1.3 mi) on Atlantic Ocean shoreline and Intracoastal waterway side. The island south of Shallotte Inlet is also included.

Unit NC–18: Mad Inlet. 7.9 km (5.0 mi) of shoreline in Brunswick County.

The entire unit is privately owned. This unit extends from the western end of Main Street to Bird Island and includes the marsh areas north of Sunset Beach.

South Carolina

Unit SC–1: Waites Island-North. 4.0 km (2.5 mi) of shoreline in Horry County.

This unit includes the northern end of Waites Island, and the majority of the unit is privately owned.

Unit SC–2: Waites Island-South. 2.4 km (1.2 mi) of shoreline in Horry County.

This unit includes the southern end of Waites Island and is mostly privately owned.

Unit SC–3: Murrells Inlet/Huntington Beach. 6.5 km (4.0 mi) of shoreline in Georgetown County.

The majority of the unit is within Huntington Beach State Park. This unit extends from the groins north of Murrells Inlet and south to the northern edge of North Litchfield Beach.

Unit SC–4: Litchfield. 0.9 km (0.6 mi) of shoreline in Georgetown County.

This unit includes the southern tip of Litchfield Beach and is mostly privately owned.

Unit SC–5: North Inlet. 5.8 km (3.7 mi) of shoreline in Georgetown County.

The majority of the unit is within Tom Yawley Wildlife Center Heritage Preserve (HP). This unit extends to the north of the inlet on Debidue Beach and to the south of the inlet on North Island.

Unit SC–6: North Santee Bay Inlet. 13.8 km (8.7 mi) of shoreline in Georgetown County.

The majority of the unit is within the Tom Yawley Wildlife Center HP and the Santee-Delta Wildlife Management Area. This unit is at the North Santee Bay inlet and includes lands of South Island, Santee Point, Cedar Island, and all of North Santee Sandbar.

Unit SC–7: Cape Romain. 24.9 km (15.5 mi) of shoreline in Charleston County.

The majority of the unit is within Cape Romain National Wildlife Refuge. This unit includes the southern portion of Cape Island, the southernmost portion of Lighthouse Island, and the southern side of the far eastern tip of Raccoon Key.

Unit SC–8: Bull Island. 7.7 km (5.0 mi) of shoreline in Charleston County.

The majority of the unit is within Cape Romain National Wildlife Refuge and land owned by the South Carolina Department of Natural Resources. This unit is the southern portion of Bull Island at the inlet and northeast tip of Capers Island HP at the inlet.

Unit SC–9: Stono Inlet. 16.0 km (9.9 mi) of shoreline in Charleston County.

Most of this unit is privately owned. A portion of the unit is Bird Key-Stono HP.

Unit SC–10: Seabrook Island. 3.5 km (2.5 mi) of shoreline in Charleston County.

This unit extends from Captain Sams Inlet to the southwest approximately 3.5 km (2.5 mi). Most of this unit is privately owned.

Unit SC–11: Deveaux Bank. 6.1 km (3.7 mi) of shoreline in Charleston County.

The entire unit is within Deveaux Bank HP. This unit includes all of Deveaux island.

Unit SC–12: Otter Island. 4.1 km (2.5 mi) of shoreline in Colleton County.

The majority of the unit is within St. Helena Sound HP. This unit includes the southern portion of Otter Island.

Unit SC–13: Harbor Island. 3.9 km (2.5 mi) of shoreline in Beaufort County.

The majority of the unit is State-owned. This unit extends from the northeastern tip of Harbor Island and includes all of Harbor Spit.

Unit SC–14: Caper's Island. 5.7 km (3.7 mi) of shoreline in Beaufort County.

Most of this unit is privately owned. This unit includes the entire Atlantic Coast shoreline of Caper's Island.

Unit SC–15: Hilton Head. 6.0 km (3.7 mi) of shoreline in Beaufort County.

The majority of this unit is State-owned. This unit includes the northeastern tip (Atlantic Ocean side) of Hilton Head Island and all of Joiner Bank.

Georgia

Unit GA–1: Tybee Island. 3.4 km (2.1 mi) of shoreline in Chatham County.

The majority of the unit is privately owned. This unit extends along the northern tip if Tybee Island starting from 0.8 km (.5 mi) northeast from the intersection of Crab Creek and Highway 80 to 0.7 km (.41 mi) northeast from the intersection of Highway 80 and Horse Pen Creek.

Unit GA–2: Little Tybee Island. 12.3 km (7.6 mi) of shoreline in Chatham County.

The majority of the unit is within Little Tybee Island State Heritage Preserve. This unit extends just south of the first inlet to Wassaw Sound along the Atlantic Ocean coastline.

Unit GA–3: North Wassaw Island. 4.0 km (2.5 mi) of shoreline in Chatham County.

The entire unit is within Wassaw National Wildlife Refuge. This unit extends from Wassaw Sound south along the Atlantic Coastline approximately 1.6 km (1.0 mi).

Unit GA–4: South Wassaw Island. 3.3 km (2.0 mi) of shoreline in Chatham County.

The entire unit is within Wassaw National Wildlife Refuge. This unit extends from the last southern 1.6 km (1.0 mi.), around the southern tip of Wassaw Island, up to the first inlet.

Unit GA–5: Ossabaw Island. 15.1 km (9.4 mi) of shoreline in Chatham County.

The entire unit is within Ossabaw Island State HP. This unit includes the northeastern tip (Camp Creek then east) and 12 km (7.5 mi) south along the Atlantic Ocean shoreline to a point 2.8 km (1.75 mi) past the center inlet.

Unit GA–6: St. Catherine's Island Bar. 6.6 km (4.1 mi) of shoreline in Liberty County.

The entire unit is State owned and located east-northeast of St. Catherines Island. This unit includes the entire St. Catherine's Island Bar.

Unit GA–7: McQueen's Inlet. 27.2 km (16.9 mi) of shoreline in Liberty County.

The majority of the unit is private land along the eastern-central coastline on St. Catherines Island. This unit extends from McQueen's Inlet north approximately 3.5 km (2.2 mi) and south approximately 1.6 km (1.0 mi).

Unit GA–8: St. Catherine's Island. 3.5 km (2.2 mi) of shoreline in Liberty County.

The majority of the unit is private land on the southern tip of St. Catherine's Island. This unit starts 1.2 km (0.75 mi) north of Sapelo Sound and stops inland at Brunsen Creek.

Unit GA–9: Blackbeard Island. 6.1 km (3.8 mi) of shoreline in McIntosh County.

The entire unit is within the Blackbeard Island National Wildlife Refuge. This unit includes the northeastern portion of the island.

Unit GA–10: Sapelo Island. 2.4 km (1.5 mi) of shoreline in McIntosh County.

The entire unit is within a State Wildlife Management Unit within Sapelo Island. The unit extends south of Cabretta tip approximately 1.6 km (1.0 mi).

Unit GA–11: Wolf Island. 12.3 km (7.7 mi) of shoreline in McIntosh County.

The majority of the unit is within Wolf Island National Wildlife Refuge and private lands just north of the Refuge. The unit includes the eastern half of Wolf Island.

Unit GA–12: Egg Island Bar. 3.8 km (2.4 mi) of shoreline in McIntosh County.

This unit is State owned and includes all of Egg Island Bar.

Unit GA–13: Little St. Simon's Island. 15.1 km (9.4 mi) of shoreline in Glynn County.

The majority of the unit is private land on Little St. Simon's Island. This unit includes the entire eastern coastline along Little St. Simon's Island.

Unit GA–14: Sea/St. Simon's Island. 3.9 km (2.4 mi) of shoreline in Glynn County.

The majority of the unit is private land on the south tip of Sea Island and on the east beach of St. Simons Island. This unit extends north of Gould's Inlet (Sea Island) and south of Gould's Inlet (St. Simons Island).

Unit GA–15: Jekyll Island. 2.8 km (1.7 mi) of shoreline in Glynn County.

The majority of the unit is within State lands on Jekyll Island. This unit includes the southern region of Jekyll Island.

Unit GA–16: Cumberland Island. 36.6 km (22.7) of shoreline in Camden County.

The majority of the unit is along Cumberland Island Wilderness Area and Cumberland Island National Seashore. This unit includes the majority of the eastern Atlantic Ocean shoreline of Cumberland Island.

Florida

Unit FL–1: Big Lagoon. 1.4 km (0.9 mi) of shoreline in Escambia County.

The majority of the unit is within Big Lagoon State Recreation Area. This unit includes the peninsula areas and islands of the State lands.

Unit FL–2: Big Sabine. 6.7 km (4.2 mi) of shoreline in Escambia County.

The majority of the unit is within Gulf Islands National Seashore. This unit includes areas adjacent to Santa Rosa Sound of Big Sabine Point and adjacent embayment.

Unit FL–3: Navarre Beach. 2.9 km (1.8 mi) of shoreline in Escambia and Santa Rosa Counties.

The majority of the unit is within lands owned by Gulf Islands National Seashore and managed by the Santa Rosa Island Authority. This unit includes lands adjacent to Santa Rosa Island.

Unit FL–4: Marifarms. 12.5 km (7.8 mi) of shoreline in Bay County.

The majority of the unit is a mixture of State and private lands. This unit extends just east of Cedar Point and ends on far east side of the southeastern-most Marifarms impoundment.

Unit FL–5: Shell/Crooked Islands. 46.8 km (29.0 mi) of shoreline in Bay County.

The entire unit is within Tyndall Air Force Base. This unit includes all of Shell Island, Crooked Island West, and Crooked Island East.

Unit FL–6: Upper St. Joe Peninsula. 8.2 km (5.1 mi) of shoreline in Gulf County.

The majority of the unit is within St. Joseph State Park. This unit includes the northern portion of the peninsula.

Unit FL–7: Cape San Blas. 5.1 km (3.2 mi) of shoreline in Gulf County.

The majority of the unit is within Eglin Air Force Base. This unit includes the area known as the cape.

Unit FL–8: St. Vincent Island. 11.6 km (7.2 mi) of shoreline in Franklin County.

The majority of the unit is within St. Vincent National Wildlife Refuge. This unit includes the western end of St. Vincent Island and areas adjacent to West Pass, the eastern end of St. Vincent Island, and the western portion of Little St. George Island.

Unit FL–9: East St. George Island. 27.8 km (17.3 mi) of shoreline in Franklin County.

The majority of the unit is within St. Geroge State Park. This unit includes the State lands on the eastern portion of St. George Island.

Unit FL–10: Yent Bayou. 4.7 km (2.9 mi) of shoreline in Franklin County.

The majority of the unit is State owned. This unit is adjacent to the area known as Royal Bluff.

Unit FL–11: Carabelle Beach. 4.1 km (2.5 mi) of shoreline in Franklin County.

The area within this unit is privately owned. This unit is the peninsula created by Boggy Jordon Bayou.

Unit FL–12: Lanark Reef. 8.8 km (5.5 mi) of shoreline in Franklin County.

The entire unit is State owned. This unit includes the entire island.

Unit FL–13: Phipps Preserve. 4.3 km (2.7 mi) of shoreline in Franklin County.

The majority of the unit is within Phipps Preserve. This unit includes the western portion of Alligator Point.

Unit FL–14: Hagens Cove. 20.3 km (12.6 mi) of shoreline in Taylor County.

The majority of the unit is within Big Bend Wildlife Management Area. This unit extends from Sponge Point to Piney Point.

Unit FL–15: Anclote Keys. 10.4 km (6.4 mi) of shoreline in Pasco and Pinellas Counties.

The majority of the unit is within Anclote Key State Preserve. This unit extends from North Anclote Key to the lighthouse.

Unit FL–16: Three Rooker Island. 7.0 km (4.3 mi) of shoreline in Pinellas County.

The majority of the unit is within Anclote Key State Preserve. This unit includes all the islands of this complex.

Unit FL–17: North Honeymoon Island. 4.6 km (2.9 mi) of shoreline in Pinellas County.

The majority of the unit is within Honeymoon Island State Recreation Area. This unit extends from North Point to the midpoint of Honeymoon Island.

Unit FL–18: South Honeymoon Island. 3.0 km (1.9 mi) of shoreline in Pinellas County.

The majority of the unit is private land. This unit is at the southern end of Honeymoon Island and encompasses the far southeastern tip.

Unit FL–19: Caladesi Island. 4.9 km (3.0 mi) of shoreline in Pinellas County.

The majority of the unit is within Caladesi Island State Park. This unit extends from Hurricane Pass to Dunedin Pass on the Gulf of Mexico side.

Unit FL–20: Shell Key and Mullet Key. 14.9 km (9.2 mi) of shoreline in Pinellas County.

The majority of the unit is within Fort Desoto Park. This unit includes the Shell Key island complex and the northwest portion of Mullet Key.

Unit FL–21: Egmont Key. 6.8 km (4.2 mi) of shoreline in Hillsborough County.

The majority of the unit is within Egmont Key National Wildlife Refuge. This unit includes the entire island.

Unit FL–22: Cayo Costa. 5.6 km (3.5 mi) of shoreline in Lee County.

The majority of the unit is within Cayo Costa State Park, and much of the remaining area is in the Cayo Costa Florida Conservation and Recreation Lands (CARL) acquisition project. This unit extends near the north end of the island and includes Murdock Point.

Unit FL–23: North Captiva Island. 2.9 km (1.8 mi) of shoreline in Lee County.

The unit is within the Cayo Costa CARL land purchase project. This unit extends from Captiva pass at the north to approximately Foster Bay at the south.

Unit FL–24: Captiva Island and Sanibel Island. 2.9 km (1.8 mi) of shoreline in Lee County.

The unit spans the Wulfert Channel that separates Captiva from Sanibel to the south. The large majority of the unit is on Sanibel, extending south to include Bowmans Beach County Park.

Unit FL–25: Bunch Beach. 7.0 km (4.4 mi) of shoreline in Lee County.

This unit is mostly within a CARL Estero Bay acquisition project. It lies along San Carlos Bay, on the mainland between Sanibel Island and Estero Island (Fort Myers Beach). It includes Bunch Beach at the end of John Morris Road on the mainland and the western tip of Estero Island (Bodwitch Point).

Unit FL–26: Estero Island. 4.3 km (2.7 mi) of shoreline in Lee County.

The majority of the unit is privately owned. The unit consists of approximately the southern third of the island's Gulf-facing shoreline (excluding south-facing shoreline at the south end of the island that faces Big Carlos Pass rather than the Gulf).

Unit FL–27: Marco Island. 10.6 km (6.5 mi) of shoreline in Collier County.

The unit is mostly privately owned, except for the Sand Dollar Key area at Tigertail Beach. The unit extends from uninhabited islands on the north side of Big Marco Pas through Sand Dollar Island and Tigertail Beach at the north end of the island, to Marco Island's south end at Caxambas Pass. The islands north of Big Marco Pass are within the Rookery Bay CARL acquisition project.

Unit FL–28: Marquesas Keys. 20.5 km (12.7 mi) of shoreline in Monroe County.

The unit comprises the roughly circular atoll that encloses Mooney Harbor, including Gull Keys and Mooney Harbor Key. The entire unit is within Key West National Wildlife Refuge.

Unit FL–29: Boca Grande/Woman/Ballast Keys. 8.8 km (5.5 mi) of shoreline in Monroe County.

Boca Grande and Woman Keys, east of the Marquesas Keys, are within Key West National Wildlife Refuge. Ballast Key is privately owned.

Unit FL–30: Bahia Honda/Ohio Keys. 12.1 km (7.5 mi) of shoreline in Monroe County.

This unit comprises Bahia Key (including a small island off its southwest shore), which is almost entirely owned by Bahia Honda State Park, plus Ohio Key, which is privately owned.

Unit FL–31: Lower Matecumbe Key. 3.4 km (2.1 mi) of shoreline in Monroe County.

Part of the unit is at Sea Oats Beach, owned by the Village of Islamorada. The remaining is at Ann's Beach.

Unit FL–32: Sandy Key/Carl Ross Key. 2.5 km (1.6 mi) of shoreline in Monroe County.

This unit consists of two adjoining islands in Florida Bay, roughly south of Flamingo in Everglades National Park. The entire area is owned and managed by the National Park Service.

Unit FL–33: St. Lucie Inlet. 4.1 km (2.6 mi) of shoreline in Martin County.

The unit includes a small area on the north shore of St. Lucie Inlet. The great majority of the unit is on the inlet's south side, including Saint Lucie Inlet State Preserve, which is administered by Jonathan Dickinson State Park.

Unit FL–34: Ponce de Leon Inlet. 3.4 km (2.2 mi) of shoreline in Volusia County.

The majority of the unit is within Smyrna Dunes Park and Lighthouse Point Park. This unit extends on either side of the inlet.

Unit FL–35: Huguenot. 25.1 km (15.5 mi) of shoreline in Nassau and Duval Counties.

The majority of the unit is within Big Talbot Island State Park, Little Talbot Island State Park, and the Tinucuan Ecological and Historical Preserve. This unit extends from the Simpson Creek inlet to the inlet of the St. Johns River.

Unit FL–36: Tiger Islands. 4.8 km (3.0 mi) of shoreline in Nassau County.

The entire unit is privately owned. This unit extends the northern tip of Tiger Island running southeast along the Cumberland Sound side of Tiger and Little Tiger Islands including the mouth of Tiger Creek.

Alabama

Unit AL–1: Isle Aux Herbes. 13.3 km (8.3 mi) of shoreline in Mobile County.

This unit includes Mississippi Sound shoreline on Isle Aux Herbes and is State-owned.

Unit AL–2: Dauphin, Little Dauphin, and Pelican Islands. 77.8 km (48.3 mi) of shoreline in Mobile County.

This unit includes areas of Mississippi Sound, Mobile Bay, and Gulf of Mexico shoreline on Dauphin, Little Dauphin, and Pelican Islands. The area is mostly privately owned but includes State and Federal lands.

Unit AL–3: Fort Morgan. 2.82 km (1.7 mi) of shoreline in Baldwin County.

This area includes Mobile Bay and Gulf of Mexico shorelines within Bon Secour National Wildlife Refuge, Fort Morgan Unit. This unit extends from the west side of the pier on the northwest point of the peninsula, following the shoreline southwest around the tip of the peninsula, then east to the terminus of the beach access road. The area is State-owned but is leased by the Federal Government.

Mississippi

Unit MS–1: Lakeshore through Bay St. Louis. 14.6 km (9.1 mi) of shoreline in Hancock County.

This unit extends from the north side of Bryan Bayou outlet and includes the shore of the Mississippi Sound following the shoreline northeast to the southeast side of the Bay Waveland Yacht Club. The shoreline of this unit is privately owned.

Unit MS–2: Henderson Point. 4.3 km (2.7 mi) of shoreline in Harrison County.

This unit extends from 0.2 km (0.13 mi) west of the intersection of 3rd Avenue and Front Street and includes the shore of the Mississippi Sound following the shoreline northeast to the west side of Pass Christian Harbor. The shoreline of this unit is privately owned.

Unit MS–3: Pass Christian. 10.6 km (6.6 mi) of shoreline in Harrison County.

This unit extends from the east side of Pass Christian Harbor and includes the shore of the Mississippi Sound following the shoreline northeast to the west side of Long Beach Pier and Harbor. The shoreline of this unit is privately owned.

Unit MS–4: Long Beach. 4.4 km (2.7 mi) of shoreline in Harrison County.

This unit extends from the east side of Long Beach Pier and Harbor and includes the shore of the Mississippi Sound following the shoreline northeast to the west side of Gulfport Harbor. The shoreline of this unit is privately owned.

Unit MS–5: Gulfport. 4.3 km (2.7 mi) of shoreline in Harrison County.

This unit extends from the east side of Gulfport Harbor and includes the shore of the Mississippi Sound following the shoreline northeast to the west side of the groin at the southern terminus of Courthouse Road, Mississippi City, MS. The shoreline of this unit is privately owned.

Unit MS–6: Mississippi City. 8.1 km (5.0 mi) of shoreline in Harrison County.

This unit extends from the east side of the groin at the southern terminus of Courthouse Road, Mississippi City, MS, and includes the shore of the Mississippi Sound following the shoreline northeast to the west side of President Casino. The shoreline of this unit is privately owned.

Unit MS–7: Beauvoir. 0.6 km (0.4 mi) of shoreline in Harrison County.

This unit extends from the east side of President Casino Broadwater and includes the shore of the Mississippi Sound following the shoreline eastward to the west side of Treasure Bay Casino Resort. The shoreline of this unit is privately owned.

Unit MS–8: Biloxi West. 5.9 km (3.7 mi) of shoreline in Harrison County.

This unit extends from the east side of Treasure Bay Casino Resort and includes the shore of the Mississippi Sound following the shoreline east to the intersection of Interstate 110 and U.S. 90. The shoreline of this unit is privately owned.

Unit MS–9: Biloxi East. 1.5 km (0.9 mi) of shoreline in Harrison County.

This unit extends from the east side of Biloxi Harbor and includes the shore of the Mississippi Sound following the shoreline east to 0.1 km west of the intersection of Oak Street and Beach Boulevard. The shoreline of this unit is privately owned.

Unit MS–10: Ocean Springs West. 1.9 km (1.2 mi) of shoreline in Jackson County.

This unit extends from U.S. 90 and includes the shore of Biloxi Bay following the shoreline southeast to the Ocean Springs Harbor inlet The shoreline of this unit is privately owned.

Unit MS–11: Ocean Springs East. 2.6 km (1.6 mi) of shoreline in Jackson County.

This unit extends from Weeks Bayou and includes the shore of Biloxi Bay following the shoreline southeast to Halstead Bayou. The shoreline of this unit is privately owned.

Unit MS–12: Deer Island. 14.6 km (9.1 mi) of shoreline in Harrison County.

The entire unit is on Deer Island. This unit includes privately owned Mississippi Sound shoreline.

Unit MS–13: Round Island. 2.6 km (1.6 mi) of shoreline in Jackson County.

This unit includes privately owned Mississippi Sound shoreline.

Unit MS–14: Mississippi Barrier Islands. 130.5 km (81.1 mi) of shoreline in Harrison and Jackson Counties.

This unit includes shoreline of the Mississippi Sound and Gulf of Mexico on Cat, East and West Ship, Horn, Spoil and Petit Bois Islands. Approximately 39.9 km (24.8 mi) are privately owned, and 95.6 km (59.4 mi) are part of Gulf Islands National Seashore.

Unit MS–15: North and South Rigolets. 5.9 km (3.7 mi) of shoreline in Jackson County, MS, and Mobile County, AL.

This unit extends from the southwestern tip of South Rigolets Island and includes the shore of Point Aux Chenes Bay, the Mississippi Sound, and Grand Bay following the shoreline east around the western tip, then north to the South Rigolets Bayou; then from the southeastern corner of North Rigolets Island north to the northeastern most point of the island. Approximately 4.3 km (2.7 mi) are in Mississippi and 1.6 km (1.0 mi) are in AL. Almost half the Mississippi shoreline length is in the Grand Bay National Wildlife Refuge.

Louisiana

Unit LA–1: Texas/Louisiana border to eastern Vermilion Parish line.186.9 km (116.1 mi) of shoreline in Cameron and Vermilion Parishes.

This unit extends from the Texas/Louisiana border and includes the shore of the Gulf of Mexico following the shoreline east to the eastern Vermilion Parish line. Approximately 144.8 km (90.0 mi) are privately owned, and 50.7 km (31.5 mi) are part of the State-owned Rockefeller Wildlife Refuge and Cheniere au' Tigre.

Unit LA–2: Wax Lake Outlet and Atchafalaya River Deltas. 35,178 ha (86,927 ac) in St. Mary Parish, LA.

Approximately 78 percent of this unit is part of the State-owned Atchafalaya Delta Wildlife Management Area, with the rest in private ownership. This unit contains various habitats including open water, mudflat, marsh, scrub-shrub, and forest. However, it only contains approximately 1,728 hectares

(4,270 acres) with the primary constituent elements for wintering piping plovers.

Unit LA–3: Point Au Fer Island. 36.7 km (22.8 mi) of shoreline in Terrebonne Parish.

This unit extends from the small island at the northwest tip of Point Au Fer Island, follows the shoreline of Point Au Fer Island southeast, and includes the shore of the Gulf of Mexico following the shoreline southeast to the western side of East Bay Junop. This entire unit is privately owned.

Unit LA–4: Isles Dernieres. 60.7 km (37.7 mi) of shoreline in Terrebonne Parish.

This unit comprises Caillou Bay, Lake Pelto, and Gulf of Mexico shoreline on the State-owned Isles Dernieres chain.

Unit LA–5: Timbalier Islands to Grand Terre Islands. 134.1 km (83.3 mi) of shoreline in Lafourche, Jefferson, and Plaquemines Parishes.

This unit includes 108.8 km (67.6 mi) of privately owned shoreline along West and East Timbalier Islands, from Belle Pass to Cheniere Caminada, Grand Isle, and Grand Terre Island; and 25.3 km (15.7 mi) of State-owned shoreline along West Timbalier, Grand Isle State Park, and Grand Terre Islands. Shoreline includes that of Caillou Bay, Lake Pelto, and the Gulf of Mexico.

Unit LA–6: Mississippi River Delta. 262,730 ha (649,220 ac) in Plaquemines Parish, LA.

This area contains various habitats including open water, mudflat, marsh, scrub-shrub, and forest. The federally owned Delta National Wildlife Refuge and State-owned Pass A Loutre Wildlife Management Area comprise 81 percent of this unit. However, it only contains approximately 1,728 hectares (4,270 acres) with the primary constituent elements for wintering piping plovers. The area with the primary constituent elements is approximately evenly divided among Federal, State, and private ownership.

Unit LA–7: Breton Islands and Chandeleur Island Chain. 132.9 km (82.6 mi) of shoreline in Plaquemines and St. Bernard Parishes, LA.

This unit includes shoreline of Breton Sound, Chandeleur Sound, and Gulf of Mexico on the Breton Islands and Chandeleur Island chain. A total of 100.4 km (62.4 mi) of shoreline are included in the Breton National Wildlife Refuge, and 32.5 km (20.2 mi) of shoreline is owned by the State.

Texas

Unit TX–1: South Bay and Boca Chica. 7,810 ha (9,575 ac) in Cameron County.

Approximately 3,875 ha (4,448 ac) of the unit are owned and managed by the Lower Rio Grande Valley National Wildlife Refuge. Approximately 1, 375 ha (3,398 ac) of the unit falls within the South Bay Coastal Preserve, leased by the Texas General Land Office (TGLO) to Texas Parks and Wildlife Department for management to protect this unique coastal area. In addition, the Texas Parks and Wildlife Department owns and manages 425 ha (1,050 ac) at Boca Chica State Park. The remaining 2,135 ha (5,275 ac) is privately owned and managed. Beaches within the unit reach from the mouth of the Rio Grande northward to Brazos Santiago Pass, south of South Padre Island. The unit includes areas from the Gulf of Mexico at the Rio Grande, west to near Loma de las Vacas, north to the Brownsville Ship Channel near Loma Ochoa, and east to the Gulf of Mexico along the Brownsville Ship Channel.

Unit TX–2: Queen Isabella Causeway. 37 ha (91 ac) in Cameron County.

The area extends along the Laguna Madre west of the city of South Padre Island and is privately owned.

Unit TX–3: Padre Island. 104,550 ha (258,339 ac) in Cameron, Willacy, Kenedy, and Kleberg Counties.

This unit is the largest in Texas. Approximately 45 percent (46,450 ha (114,776 ac)) of the unit is owned and managed by Padre Island National Seashore (PAIS). The TGLO owns and manages about 48 percent (48,900 ha (120,830 ac)), although boundaries between the State-owned lands and private lands are not always well demarcated. The remaining 9,200 ha (22,733 ac) is privately owned with a significant portion of that area being owned and managed by The Nature Conservancy on South Padre Island. The unit spans the breadth of the island from the north end of the City of South Padre Island to mile marker 30 on PAIS where the unit splits to include only bayside flats and beach. This unit probably harbors the single largest number of wintering piping plovers.

Unit TX–4: Lower Laguna Madre Mainland. 15,555 ha (38,436 ac) in Cameron and Willacy, Counties.

This unit constitutes important habitat when flats on Unit TX–3 are inundated. It is a unit with approximately 3,930 ha (9,711 ac) within the Laguna Atascosa National Wildlife Refuge. Approximately 3,855 ha (9,526 ac) is privately owned, with the remaining 7,770 ha (19,199 ac) owned and managed by the TGLO. The unit constitutes a system of mainland flats reaching from El Realito Peninsula to an area south of the City of Port Mansfield.

Unit TX–5: Upper Laguna Madre. 1,245 ha (3,076 ac) in Kleberg County.

This unit includes 170 hectares (420 acres) of PAIS and consists of a series of small flats along the bayside of Padre Island in the Upper Laguna Madre. The remainder of the area is privately owned with adjacent State-owned submerged lands. The unit stretches from just south of the northern boundary of PAIS to the Kleberg/Nueces County line and includes the area from just gulfward of the Gulf Intercoastal Waterway to uplands on Padre Island.

Unit TX–6: Mollie Beattie Coastal Habitat. 935 ha (2,310 ac) in Nueces County.

This unit is primarily composed of submerged land owned and managed by the TGLO. Much of the unit falls within two State tracts that have been designated under a Memorandum of Understanding between the U.S. Fish and Wildlife Service and the TGLO as an Adopt-a-Habitat site. The unit reaches from uplands on Mustang Island, near State Highway 361, to just gulfward of the Gulf Intercoastal Waterway, and from Packery Channel on the south to just north of Corpus Christi Pass on the north. Approximately 54 ha (133 ac) is owned by Nueces County. Approximately 117 ha (289 ac) of uplands are privately owned, and the remaining 764 ha (1,888 ac) are owned and managed by the TGLO.

Unit TX–7: Newport Pass/Corpus Christi Pass Beach. 200 ha (494 ac) in Nueces County.

This unit is along a stretch of Gulf beach approximately 8.5 km (5.3 mi) long. Approximately 5.75 km (3.6 mi) are managed by the Texas Parks and Wildlife Department as part of Mustang Island State Park. The remaining 2.75 km (1.7 mi) are leased from the TGLO by Nueces County. The unit stretches from near the entrance of Zahn Road onto the beach to Fish Pass to the north.

Unit TX–8: Mustang Island Beach. 19.5 km (12.1 mi) in Nueces County.

This is a stretch of Gulf beach between Fish Pass in Mustang Island State Park to the City of Port Arnasas, TX. Approximately 2.5 km (1.5 mi) fall within the State Park, and the remaining 17 km (10.6 mi) are managed by Port Aransas and Nueces County.

Unit TX–9: Fish Pass Lagoons. 175 ha (432 ac) in Nueces County.

This unit is a system of interior lagoons on Mustang Island, within Mustang Island State Park. This system of lagoons falls along either side of Fish Pass and runs northeast to southwest along an axis parallel to the main axis of Mustang Island. The unit encompasses flats approximately 1.0 km (0.6 mi) either side of Fish Pass.

Unit TX–10: Shamrock Island and Adjacent Mustang Island Flats. 880 ha (2,174 ac) in Nueces County.

This unit is made up of privately owned land and adjacent State-owned submerged lands. The Nature Conservancy is the primary private landowner in the unit. The unit encompasses Shamrock Island and includes property gulfward to the entrance of Wilson's Cut, then southwest approximately 3.5 km (2.2 mi). It also includes flats along the margin of lagoons interior to Mustang Island, but adjacent and parallel to Corpus Christi Bay.

Unit TX–11: Blind Oso. 31 ha (77 ac) in Nueces County.

This unit occurs on flats of Oso Bay, from Hans and Pat Suter Wildlife Refuge (owned and managed by the City of Corpus Christi) northeast to Corpus Christi Bay and then southeast along the edge of Texas A&M University—Corpus Christi. The entire unit falls within State-owned submerged lands, but is bordered on all sides by private property.

Unit TX–12: Adjacent to Naval Air Station-Corpus Christi. 88 ha (217 ac) in Nueces County.

This unit also occurs within Oso Bay on flats bordered by Naval Air Station-Corpus Christ on the east. This unit consists of flats near the entrance of Oso Bay to Corpus Christi Bay. The unit occurs within State-owned submerged lands, but is bordered by Federal lands owned and managed by the U.S. Navy.

Unit TX–13: Sunset Lake. 370 ha (914 ac) in San Patricio County.

This unit is owned and managed by the City of Portland within a system of city parks. Some of the described area falls within the jurisdiction of the TGLO. It includes two

city park units referred to as Indian Point and Sunset Lake. Much of the unit is a recent acquisition by the city, and management considerations for the park include the area's importance as a site for wintering and resident shorebirds. The area is bordered on the northwest by State Highway 181 and on the southeast by Corpus Christi Bay. To the north, the unit is bordered by the City of Portland and includes the remainder of the peninsula, which follows along State Highway 181.

Unit TX–14: East Flats. 520 ha (1,284 ac) in Nueces County.

About 240 ha (593 ac) of the west end of this unit falls within State-owned (TGLO) submerged lands. The remainder of the unit is privately owned. It is bordered on the north by dredge placement areas bordering the Corpus Christi Ship Channel, on the west by Corpus Christi Bay, and on the east by the City of Port Aransas. It is bisected by a navigation channel.

Unit TX–15: North Pass. 710 ha (1,754 ac) in Aransas County.

This unit is a washover system, primarily on the privately owned San Jose Island. The unit is bordered on the west by Aransas Bay, just south of Mud Island, and it abuts the beach unit TX–16 to the east. The unit borders TX–16 for approximately 2.0 km (1.2 mi) and stretches landward (to the north and west) to Aransas Bay.

Unit TX–16: San Jose Beach. 32.0 km (19.9 mi) of shoreline in Aransas County.

This unit occupies a stretch of beach on the privately owned island of San Jose. The unit stretches from the jetties on the south end of San Jose Island, just north of Port Aransas, to Cedar Bayou, where San Jose Island is adjacent to Matagorda Island.

Unit TX–17: Allyn's Bight. 109 ha (269 ac) in Aransas County.

This unit is adjacent to and bordered on the east by San Jose Island. It occurs south of a section of the San Jose Island shoreline known as Allyn's Bight, at the northeast end of Mud Island along the east margin of Aransas Bay.

Unit TX–18: Cedar Bayou/Vinson Slough. 3,645 ha (9,007 ac) in Aransas County.

This unit abuts unit TX–17 on San Jose Island and unit TX–19 on Matagorda Island. It includes the highly dynamic area of Cedar Bayou, the pass that separates San Jose Island and Matagorda Island. This area includes a small section of Matagorda Island National Wildlife Refuge (approximately 43 ha (106 acres)) with much of the remaining 3,602 ha (8,154 ac) occurring on the privately owned island of San Jose. The unit is a band adjacent to Aransas Bay, averaging approximately 3.0 km (1.9 mi) wide and stretching from Cedar Bayou to a point about 4.0 km (2.5 mi) south of Long Reef.

Unit TX–19: Matagorda Island Beach. 69.0 km (43.0 mi) of shoreline in Calhoun County.

This stretch of beach on Matagorda Island extends from Cedar Bayou on the southwest (where it abuts TX–18), to Pass Cavallo on the northeast. The unit falls entirely within the boundary of the Matagorda Island National Wildlife Refuge.

Unit TX–20: Ayres Point. 590 hectares (1,458 acres) in Calhoun County.

This unit includes marsh and flats at Ayres Point on Matagorda Island National Wildlife Refuge. The unit is on Ayres Point between Shell Reef Bayou and Big Brundrett Lake.

Unit TX–21: Panther Point to Pringle Lake. 2,629 ha (6,496 ac) in Calhoun County.

This unit represents a narrow band of habitats about 1.0 km (0.6 mi) wide that stretches from Panther Point to the northwest end of Pringle Lake. The unit is entirely within Matagorda Island National Wildlife Refuge.

Unit TX–22: Decros Point. 905 ha (2,236 ac) at the Matagorda/Calhoun County line.

This unit includes about 7.0 km (4.3 mi) of Gulf beach habitat along the tip of Matagorda Peninsula southwest of the Matagorda Ship Channel. The adjacent upland is privately owned.

Unit TX–23: West Matagorda Peninsula Beach. 40.0 km (24.8 mi) of shoreline in Matagorda County.

This unit extends from the jetties at the Matagorda Ship Channel to the old Colorado River channel. This beach is along private lands.

Unit TX–24: West Matagorda Bay/Western Peninsula Flats. 1,165 ha (2,879 ac) in Matagorda County.

This unit is a series of flats, exposed at low tide, along the bayside of Matagorda Peninsula on the margin of West Matagorda Bay. The peninsula is privately owned, and this unit is one of two bayside flats that have been identified on the peninsula. This is the western-most of the two West Matagorda Bay units.

Unit TX–25: West Matagorda Bay/Eastern Peninsula Flats 430 ha (1,062 ac) in Matagorda County.

This unit is the eastern-most of two units on the bayside of West Matagorda Bay along Matagorda Peninsula. The peninsula along which this unit is located is privately owned.

Unit TX–26: Colorado River Diversion Delta. 455 ha (1,124 ac) in Matagorda County.

This unit consists of flats that have formed in the northeast corner of West Matagorda Bay where the Colorado River empties into the bay. It is State-owned.

Unit TX–27: East Matagorda Bay/Matagorda Peninsula Beach West. 22.0 km (13.7 mi) of shoreline in Matagorda County.

This unit is along Gulf beach on the Matagorda Peninsula southeast of East Matagorda Bay. It stretches from the old Colorado River channel northeast along the peninsula.

Unit TX–28: East Matagorda Bay/Matagorda Peninsula Beach East. 9.5 km (5.9 mi) of shoreline in Matagorda County.

This unit runs along the Gulf beach on the northeast end of Matagorda Peninsula from southeast of Brown Cedar Cut to a point on the beach southeast of Carancahua Bend. It is a beach adjacent to private land.

Unit TX–29: Brown Cedar Cut. 270 ha (667 ac) in Matagorda County.

This is a unit on the bayside of Matagorda Peninsula in East Matagorda Bay. It occurs along privately owned land. It encompasses the flats associated with Brown Cedar Cut and abuts unit TX–28 to the southeast.

Unit TX–30: Northeast Corner East Matagorda Bay. 245 ha (605 ac) in Matagorda County.

This is a unit in the northeast corner of East Matagorda Bay. It is a system of flats associated with tidal channels near the Intracoastal Waterway. It abuts unit TX–28 to the southeast.

Unit TX–31: San Bernard NWR Beach. 14.0 km (8.7 mi) of shoreline in Matagorda and Brazoria Counties.

This is a unit composed of Gulf beach, 8.0 km (5.0 mi) of which lies within San Bernard National Wildlife Refuge. The unit stretches from the mouth of the San Bernard River to a point along the beach approximately 14.0 km (8.7 mi) to the southwest.

Unit TX–32: Gulf Beach Between Brazos and San Bernard Rivers. 9.0 km (5.6 mi) of shoreline in Brazoria County.

This unit is a stretch of Gulf beach between the Brazos River and the San Bernard River.

Unit TX–33: Bryan Beach and Adjacent Beach. 6.0 km (3.7 mi) of shoreline in Brazoria County.

Part of this unit of Gulf beach lies within the Bryan Beach unit of the Peach Point Wildlife Management Area and is owned and managed by the Texas Parks and Wildlife Department.

Unit TX–34: San Luis Pass. 6.0 km (3.7 mi) of shoreline near the Brazoria/Galveston County line.

This unit is associated with the floodtide delta at San Luis Pass and includes Gulf beach and extensive sand flats associated with the pass. Approximately 57 percent of the unit includes flats in the floodtide delta, which are State-owned and managed by the TGLO. Much of the remainder of the unit is owned by the TGLO, but managed by local government. The unit includes the floodtide delta northwest of the causeway, as well as a 6.0-km (3.7-mi) stretch of beach starting at the causeway and running northeast along the Gulf.

Unit TX–35: Big Reef. 3.0 km (1.9 mi) of shoreline in Galveston County.

This unit is on the southwest side of Bolivar Roads, on the north end of the City of Galveston. It is made up of approximately 85 ha (210 ac) of beach along the inlet and associated sand flats. The area is currently managed by the City of Galveston, and much of the site is under a conservation agreement to further protection of the resources at the site.

Unit TX–36: Bolivar Flats. 670 ha (1,655 ac) in Galveston County.

This unit of flats was formed by accretion behind the jetties at Bolivar Roads near the tip of Bolivar Peninsula. The unit stretches from the jetties on the southwest to a point on the Gulf beach just north of Beacon Bayou. It includes almost 5.0 km of Gulf shoreline. The area is leased from TGLO by Houston Audubon Society and managed for its important avian resources. This unit also includes one of two Western Hemisphere Shorebird Reserve Network sites in Texas.

Unit TX–37: Rollover Pass. 290 ha (717 ac) in Galveston County.

This unit is on the bayside of Rollover Bay on Bolivar Peninsula. It includes flats on State-owned land managed by the TGLO.

Effects of Critical Habitat Designation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, 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. When multiple units of critical habitat are designated, each unit may serve as the basis of a jeopardy analysis if protection of different facets of the species' life cycle or its distribution are essential to the species as a whole for both its survival and recovery. Individuals, organizations, States, local governments, and other non-Federal entities are affected by the designation of critical habitat only 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 critical habitat, if any is designated or proposed. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The conservation recommendations in a conference report are advisory.

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 402.14, as if critical habitat were designated. We may adopt the formal conference report as a biological opinion if the critical habitat is designated, if no significant new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If a species is listed or critical habitat is designated, 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. Through this consultation, we would advise the agencies whether the permitted actions would likely jeopardize the continued existence of the species or adversely modify critical habitat.

When we issue a biological opinion concluding that a project is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Service believes would avoid the likelihood of jeopardizing the continued existence of listed species or resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers (USACE) under section 404 of the Clean Water Act or a section 10(a)(1)(B) permit from the Service, or some other Federal action, including funding (*e.g.*, from the Federal Highway Administration (FHA), Environmental Protection Agency (EPA), or Federal Emergency Management Agency (FEMA)), will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on non-Federal lands that are not federally funded, authorized, or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or 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 to an extent that the value of critical habitat for both the survival and recovery of the wintering piping plover is appreciably reduced. We note that such activities may also jeopardize the continued existence of the species.

Federal activities that have undergone previous section 7 consultation on the effects of the action on wintering piping plover habitat are listed below. The action agencies involved in these consultations have included the USACE, U.S. Coast Guard, and other Department of Defense agencies, National Park Service, FHA, Minerals Management Service, Bureau of Land Management, Federal Energy Regulatory Commission, and others.

(1) Dredging and dredge spoil placement;

(2) Seismic exploration;

(3) Construction and installation of facilities, pipelines, and roads associated with oil and gas development;

(4) Oil and other hazardous material spills and cleanup;

(5) Construction of dwellings, roads, marinas, and other structures, and associated activities including staging of equipment and materials;

(6) Beach nourishment, cleaning, and stabilization (*e.g.*, construction and maintenance of jetties and groins, planting of vegetation, and placement of dune fences);

(7) Certain types and levels of recreational activities, such as vehicular activity that impacts the substrate resulting in reduced prey or disturbance to the species;

(8) Stormwater and wastewater discharge from communities;

(9) Sale, exchange, or lease of Federal land that contains suitable habitat that may result in the habitat being altered or degraded;

(10) Marsh and coastal restoration, particularly restoration of barrier islands and other barrier shorelines;

(11) Military missions; and

(12) Bridge or culvert construction, reconstruction, and stabilization.

With the designation of critical habitat for wintering piping plovers, we would notify the USACE, other permitting agencies, and the public that Clean Water Act section 404 nationwide

permits and other authorizations for activities within these designated critical habitat areas must comply with section 7 consultation requirements. For each section 7 consultation, we already review the direct and indirect effects of the proposed projects on piping plovers, and will continue to do so for critical habitat if it is designated.

Activities that may destroy or adversely modify critical habitat are 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 piping plover is appreciably reduced. These activities may destroy or adversely modify critical habitat by:

(1) Significantly and detrimentally altering the hydrology of tidal flats;

(2) Significantly and detrimentally altering inputs of sediment and nutrients necessary for the maintenance of geomorphic and biologic processes that insure appropriately configured and productive systems;

(3) Introducing significant amounts of emergent vegetation (either through actions such as marsh restoration on naturally unvegetated sites, or through changes in hydrology such as severe rutting or changes in storm or wastewater discharges);

(4) Significantly and detrimentally altering the topography of a site (such alteration may affect the hydrology of an area or may render an area unsuitable for roosting);

(5) Reducing the value of a site by significantly disturbing plovers from activities such as foraging and roosting (sources of such disturbance may include elevated levels of human presence);

(6) Significantly and detrimentally altering water quality, which may lead to decreased diversity or productivity of prey organisms or may have direct detrimental effects on piping plovers (as in the case of an oil spill); and

(7) Impeding natural processes that create and maintain washover passes and sparsely vegetated intertidal feeding habitats.

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, P.O. Box 1306, Albuquerque, New Mexico 87103–1306. If you have questions regarding whether specific activities will constitute adverse modification of critical habitat, the following Fish and Wildlife Service personnel may be contacted:

Alabama: Darren LeBlanc (334/441–5181)

Florida: Patty Kelly (850/769–0552, extension 228)

Georgia: Robert Brooks (912/265–9336, extension 25)

Louisiana: Debbie Fuller (337/291–3124)

Mississippi: Linda LaClaire (601/321–1126)

North Carolina: Kevin Moody (919/856–4520, extension 19)

South Carolina: Paula Sisson (843/727–4707, extension 18)

Texas: Lee Elliott (361/994–9005, extension 227)

Relationship to Incidental Take Permits Issued Under Section 10

Section 10(a) of the Act authorizes us to issue permits for the taking of listed species incidental to otherwise lawful activities. Incidental take permit applications must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement for the species to minimize and mitigate the impacts of the requested incidental take. Currently, no approved HCPs cover the wintering plover or its habitat.

In the event that HCPs covering the wintering piping plover are developed in the future within the proposed critical habitat, we will work with applicants to ensure the HCPs provide for protection and management of habitat areas essential for the conservation of the piping plover, while directing development and habitat modification to nonessential areas of lower habitat value. The HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the piping plover. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species. We fully expect that HCPs undertaken by local jurisdictions (*e.g.,* townships, counties) and other parties will identify, protect, and provide appropriate economic impacts of designating these areas as critical habitat prior to a final determination. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and we will open a 30-day comment period at that time.

American Indian Tribal Rights, Federal—Tribal Trust Responsibilities, and the Endangered Species Act

In accordance with the Presidential Memorandum of April 29, 1994, we are required to assess the effects of critical habitat designation on tribal lands and tribal trust resources. No tribal lands are proposed for designation as critical habitat, and no effects on tribal trust resources are anticipated if this proposal is made final.

Public Comments Solicited

We intend 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, Native American Tribes, 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 designating areas as critical habitat will outweigh the benefits of excluding areas from the designation;

2. Specific information on the numbers and distribution of wintering piping plovers and what habitat is essential to the conservation of the species and why;

3. Information on specific characteristics of habitats essential to the conservation of the piping plover on its wintering grounds;

4. Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

5. Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat—in particular, any impacts on small entities or families; and,

6. Economic and other values associated with designating critical habitat for the wintering population of piping plover, such as those derived from nonconsumptive uses (*e.g.,* hiking, camping, birdwatching, enhanced watershed protection, improved air quality, and ''existence values'').

Additionally, we are seeking comments on critical habitat designation relative to future HCPs. Future conservation planning efforts may occur within the range of the piping plover in areas we are proposing as critical habitat. We invite comments on the appropriateness of the following alternative approaches we are considering regarding critical habitat designations within the boundaries of future approved HCPs upon issuance of section 10(a)(1)(B) permits for the piping plover.

(1) Retain critical habitat designation within the HCP boundaries and use the section 7 consultation process on the issuance of the incidental take permit to ensure that any take we authorize will not destroy or adversely modify critical habitat;

(2) Revise the critical habitat designation upon approval of the HCP and issuance of the section 10(a)(1)(B) permit to retain only preserve areas, on the premise that they encompass areas essential for the conservation of the species within the HCP area and require special management and protection in the future. Assuming that we conclude, at the time an HCP is approved and the associated incidental take permit is issued, that the plan protects those areas essential to the conservation of the piping plover, we would revise the critical habitat designation to exclude areas outside the reserves, preserves, or other conservation lands established under the plan. Consistent with our listing program priorities, we would publish a proposed rule in the **Federal Register** to revise the critical habitat boundaries;

(3) As in (2) above, retain only preserve lands within the critical habitat designation, on the premise that they encompass areas essential for conservation of the species within the HCP area and require special management and protection in the future. However, under this approach, the exclusion of areas outside the preserve lands from critical habitat would occur automatically upon issuance of the incidental take permit. The public would be notified and have the opportunity to comment on the boundaries of the preserve lands and the revision of designated critical habitat during the public review and comment process for HCP approval and permitting;

(4) Remove designated critical habitat entirely from within the boundaries of an HCP when the plan is approved (including preserve lands), on the premise that the HCP establishes long-term commitments to conserve the species and no further special management or protection is required. Consistent with our listing program priorities, we would publish a proposed rule in the **Federal Register** to revise the critical habitat boundaries; or

(5) Remove designated critical habitat entirely from within the boundaries of HCPs when the plans are approved (including preserve lands), on the premise that the HCP establishes long-term commitments to conserve the species and no additional special management or protection is required. This exclusion from critical habitat would occur automatically upon issuance of the incidental take permit. The public would be notified and have the opportunity to comment on the revision of designated critical habitat during the public notification process for HCP approval and permitting.

Our practice is to make comments we receive on this rulemaking, 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 a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this request prominently at the beginning of your comments. 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.

Peer Review

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 these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the 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 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/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 proposed rule 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 proposed rule? (5) What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may e-mail your comments to this address: Execsec@ios.doi.gov.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Given the large geographic extent covered by this proposal, the high likelihood of multiple requests, and the need to publish a final determination by September 30, 2000, we have scheduled nine public hearings at the following addresses on the dates indicated.

1. Wilmington, North Carolina, on July 17, 2000, Roland-Brise Middle School, 4412 Lake Avenue.
2. Savannah, Georgia, on July 19, 2000, at Savannah Technical Institute, 5717 White Bluff Road.
3. Tallahassee, Florida, on July 21, 2000, at Dale Mabry Conference Center (Tallahassee Airport), 3300 Capital Circle Southwest, Suite 1.
4. Fort Myers, Florida, on July 24, 2000, at Fort Myers Convention Complex, 1375 Monroe Street.
5. Mobile, Alabama, on July 26, 2000, at Ramada Plaza Hotel and Conference Center, 600 South Beltline Highway.
6. Baton Rouge, Louisiana, on July 27, 2000, at The Pennington Center, 6400 Perkins Road.
7. Galveston, Texas, on July 31, 2000, at Texas A & M University at Galveston, 200 Seawolf Parkway, Pelican Island Campus Auditorium—Building 3007.
8. Corpus Christi, Texas, on August 2, 2000, at Texas A & M University at Corpus Christi, Student Center Ballroom, 6300 Ocean Drive.
9. McAllen, Texas, on August 4, 2000, at McAllen Civic Center Auditorium, 1300 10th Street.

Written comments submitted during the comment period receive equal consideration with those comments presented at a public hearing.

Required Determinations

Regulatory Planning and Review

In accordance with the criteria in Executive Order 12866, this rule is a significant regulatory action and has been reviewed by the Office of Management and Budget (OMB).

(a) This rule will not have an annual economic effect of $100 million or more, or adversely affect an economic sector, productivity, jobs, the environment, or other units of government.

(b) This rule will not create inconsistencies with other agencies' actions. Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of the piping plover since listing in 1985. As shown in Table 3 (below), no additional effects on agency actions are anticipated to result from critical habitat designation. Because of the potential for impacts on other Federal agency actions, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

Categories of activities	Activities potentially affected by species listing only [1]	Additional activities potentially affected by critical habitat designation [2]
Federal activities potentially affected [3].	Activities such as removing or destroying piping plover wintering habitat, whether by mechanical, chemical, or other means (*e.g.,* construction, road building, dredging and other navigation projects, boat launch and marina construction or maintenance, beach nourishment, erosion control); recreational activities that significantly deter the use of suitable habitat areas by piping plovers or alter habitat through associated maintenance activities; sale, exchange or lease of Federal land that contains suitable habitat that may result in the habitat being destroyed or appreciably degraded.	None.
Private and other non-Federal activities potentially affected [4].	Activities such as removing or destroying piping plover habitat, whether by mechanical, chemical, or other means (*e.g.*, construction, road building, dredging and other navigation projects, boat launch and marina construction or maintenance, beach nourishment, erosion control) and appreciably decreasing habitat value or quality (*e.g.*, increased vehicular activity on sensitive habitats, increased predators, reduced water quality, modified hydrology) that require a Federal action (permit, authorization, or funding).	None.

[1] This column represents the activities potentially affected by listing the piping plover as a threatened species (December 11, 1985; 50 FR 50720) under the Endangered Species Act.
[2] This column represents the effects on activities resulting from critical habitat designation beyond the effects attributable to the listing of the species.
[3] Activities initiated by a Federal agency.
[4] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

(c) The proposed rule, if made final, will not significantly impact entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and we do not anticipate that the adverse modification prohibition (resulting from critical habitat designation) will have any incremental effects.

(d) This rule will not raise novel legal or policy issues. The proposed rule follows the requirements for determining critical habitat contained in the Endangered Species Act.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

In the economic analysis (under section 4 of the Act), we will determine whether designation of critical habitat will have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is not expected to result in any restrictions in addition to those currently in existence.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we will determine whether designation of critical habitat will 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.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that any programs involving Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat.

b. This rule will not produce a Federal mandate on State, local, or tribal governments or the private sector of $100 million or greater in any year, *i.e.*, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments.

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. The designation of critical habitat affects only Federal agency actions. Federal actions on private lands could be affected by critical habitat designation, however, we expect no regulatory effect from this designation since all proposed areas are considered occupied by the species and would be reviewed under both the jeopardy and adverse modification standards under section 7 of the Act.

The rule will not increase or decrease the current restrictions on private property concerning taking of the piping plover as defined in section 9 of the Act and its implementing regulations (50 FR 17.31). Additionally, critical habitat designation does not preclude development of habitat conservation plans and issuance of incidental take permits. Landowners in areas that are included in the designated critical habitat will continue to have opportunity to utilize their property in ways consistent with the survival of the piping plover.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. 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 North Carolina, South Carolina, Georgia, Florida,

Alabama, Mississippi, Louisiana, and Texas. We will continue to coordinate any future designation of critical habitat for wintering piping plovers with the appropriate State agencies. The designation of critical habitat for the piping plover is not expected to result in any additional restrictions to those currently in place and, therefore, no incremental impact on State and local governments and their activities are expected. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, doing so may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

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

We have determined that we do not need to prepare an Environmental Assessment or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Corpus Christi Ecological Services Field Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Lee Elliott (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 entries for ''Plover, piping'' under ''BIRDS'' 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						
*	*	*	*	*	*	*	
BIRDS							
*	*	*	*	*	*	*	
Plover, piping.	*Charadrius melodus.*	U.S.A. (Great Lakes, northern Great Plains, Atlantic and Gulf coasts, PR, VI), Canada, Mexico, Bahamas, West Indies.	Great Lakes, watershed in States of IL, IN, MI, MN, NY, OH, PA, and WI and Canada (Ont.).	E	211	17.95(b)	NA
Do	do	do	Entire, except those areas where listed as endangered above.	T	211	17.95(b)	NA
*	*	*	*	*	*	*	

3. Section § 17.95(b) is amended by adding critical habitat for the piping plover (*Charadrius melodus*) in the same alphabetical order as the species occurs in § 17.11(h) to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) *Birds.*

* * * * *

PIPING PLOVER (*Charadrius melodus*)
Wintering Habitat

North Carolina

Projection: Universal Transverse Mercator, Zone 18.

Unit NC–1: Oregon Inlet.

This unit begins at UTM 451322 E, 3960070 N; thence to 451524 E, 3962634 N; to 454314 E, 3957376 N; to 453728 E, 3957048 N; to 452375 E, 3956783 N; to 449753 E, 3960026 N; to 449962 E, 3961442 N; to 450213 E, 3961972 N; to 451524 E, 3962634 N; and thence to point of beginning.

Unit NC–2: Cape Hatteras Point.

This unit begins at UTM 449759 E, 3898487 N; to 446066 E, 3899834 N; to 448394 E, 3899965 N; to 451219 E, 3899573 N; to 451899 E, 3900148 N; to 452317 E, 3901273 N; to 452893 E, 3902424 N; to 453494 E, 3902502 N; to 452422 E, 3896669 N; to 445988 E, 3898736 N; to 446066 E, 3899834 N; and thence to point of beginning.

Unit NC–3: Clam Shoals.

This unit begins at UTM 439959 E, 3906625 N; to 438429 E, 3905876 N; to 438429 E, 3907210 N; to 441489 E, 3907210 N; to 441489 E, 3905876 N; to 438429 E, 3905876 N; and thence to point of beginning.

Unit NC–4: Hatteras Inlet.

This unit begins at UTM 431685 E, 3895385 N; to 436885 E, 3895920 N; to 429801 E, 3892916 N; to 428187 E, 3892804 N; to 427649 E, 3895337 N; to 430519 E, 3896772 N; to 433702 E, 3896436 N; to 435832 E, 3897400 N; to 436885 E, 3895920 N; and thence to point of beginning.

Unit NC–5: Ocracoke Island.

This unit begins at UTM 410472 E, 3883720 N; to 413103 E, 3884856 N; to 408678 E, 3881291 N; to 408021 E, 3882226 N; to 408931 E, 3883541 N; to 412648 E, 3885615 N; to 413103 E, 3884856 N; and thence to point of beginning.

Unit NC–6: Portsmouth Island-Cape Lookout.

This unit begins at UTM 399950 E, 3877027 N; to 407108 E, 3880149 N; to 393159 E, 3869047 N; to 391260 E, 3871238 N; to 402580 E, 3883253 N; to 406415 E,

3881317 N; to 407108 E, 3880149 N; to 380912 E, 3859049 N; to 383021 E, 3861705 N; to 383324 E, 3861689 N; to 384154 E, 3860987 N; to 380661 E, 3857590 N; to 379959 E, 3856952 N; to 378348 E, 3855644 N; to 377630 E, 3856234 N; to 378061 E, 3857781 N; to 383021 E, 3861705 N; and thence to point of beginning.

Unit NC–7: South Core Banks.

This unit begins at UTM 359081 E, 3831186 N; to 358149 E, 3834204 N; to 358494 E, 3833735 N; to 358322 E, 3831980 N; to 360298 E, 3832944 N; to 361311 E, 3832178 N; to 359483 E, 3827063 N; to 358569 E, 3827187 N; to 356666 E, 3832771 N; to 357580 E, 3834402 N; to 358149 E, 3834204 N; and thence to point of beginning.

Unit NC–8: Shackleford Banks.

This unit begins at UTM 349056 E, 3839547 N; to 347178 E, 3840900 N; to 348834 E, 3840554 N; to 351230 E, 3839961 N; to 351057 E, 3837812 N; to 348488 E, 3838454 N; to 346857 E, 3839245 N; to 347178 E, 3840900 N; to 359535 E, 3834955 N; to 357679 E, 3835020 N; to 358618 E, 3836082 N; to 359680 E, 3836206 N; to 360199 E, 3836601 N; to 360990 E, 3836305 N; to 361361 E, 3834847 N; to 360397 E, 3833191 N; to 359656 E, 3832845 N; to 357679 E, 3835020 N; and thence to point of beginning.

Unit NC–9: Rachel Carson.

This unit begins at UTM 348538 E, 3842087 N; to 347179 E, 3843127 N; to 347530 E, 3842870 N; to 348126 E, 3842590 N; to 349050 E, 3842531 N; to 349611 E, 3842391 N; to 350897 E, 3842064 N; to 351388 E, 3842005 N; to 352136 E, 3841923 N; to 352171 E, 3841631 N; to 349938 E, 3840754 N; to 348033 E, 3841689 N; to 346314 E, 3841970 N; to 346115 E, 3842520 N; to 346501 E, 3842870 N; to 346899 E, 3842823 N; to 347179 E, 3843127 N; and thence to point of beginning.

Unit NC–10: Bogue Inlet.

This unit begins at UTM 307283 E, 3836342 N; to 308198 E, 3835429 N; to 307936 E, 3834962 N; to 306961 E, 3835535 N; to 306535 E, 3836256 N; to 306912 E, 3837116 N; to 307264 E, 3837420 N; to 307936 E, 3837387 N; to 307993 E, 3836338 N; to 307477 E, 3835953 N; to 307895 E, 3835781 N; to 308198 E, 3835429 N; to 305430 E, 3835386 N; to 305339 E, 3836215 N; to 305970 E, 3836027 N; to 306387 E, 3835314 N; to 305699 E, 3834568 N; to 304642 E, 3834322 N; to 304347 E, 3835183 N; to 305142 E, 3836141 N; to 305339 E, 3836215 N; and thence to point of beginning.

Unit NC–11: Topsail.

This unit begins at UTM 253206 E, 3801594 N; to 255487 E, 3804759 N; to 256758 E, 3803655 N; to 250472 E, 3797537 N; to 249068 E, 3798774 N; to 254551 E, 3804491 N; to 255487 E, 3804759 N; and thence to point of beginning.

Unit NC–12: Figure Eight Island.

This unit begins at UTM 244824 E, 3792914 N; to 245958 E, 3793023 N; to 245145 E, 3791715 N; to 244739 E, 3791397 N; to 244145 E, 3792625 N; to 243731 E, 3792934 N; to 243942 E, 3793658 N; to 245170 E, 3794097 N; to 245170 E, 3793446 N; to 245958 E, 3793023 N; and thence to point of beginning.

Unit NC–13: Masonboro.

This unit begins at UTM 240385 E, 3785897 N; to 240260 E, 3786769 N; to 241454 E, 3785773 N; to 241220 E, 3785436 N; to 240173 E, 3784735 N; to 239186 E, 3785220 N; to 239524 E, 3786042 N; to 240164 E, 3786804 N; to 240260 E, 3786769 N; and thence to point of beginning.

Unit NC–14: Carolina Beach Inlet.

This unit begins at UTM 235019 E, 3778673 N; to 235018 E, 3778663 N; to 235012 E, 3778664 N; to 235027 E, 3778695 N; to 235018 E, 3778663 N; to 235301 E, 3776207 N; to 235018 E, 3778663 N; to 237279 E, 3778281 N; to 234797 E, 3773059 N; to 233526 E, 3773503 N; to 235018 E, 3778663 N; and thence to point of beginning.

Unit NC–15: Ft. Fisher.

This unit begins at UTM 227863 E, 3758770 N; to 227285 E, 3761130 N; to 229414 E, 3761819 N; to 230360 E, 3760992 N; to 227660 E, 3754862 N; to 226595 E, 3754980 N; to 226241 E, 3758469 N; to 227108 E, 3760972 N; to 227285 E, 3761130 N; and thence to point of beginning.

Unit NC–16: Lockwood Folly Inlet.

This unit begins at UTM 201227 E, 3757688 N; to 200823 E, 3758337 N; to 201239 E, 3758381 N; to 201640 E, 3758186 N; to 201600 E, 3757375 N; to 201939 E, 3757163 N; to 201674 E, 3756882 N; to 201181 E, 3756801 N; to 200786 E, 3757822 N; to 200823, 3758337; and thence to point of beginning.

Unit NC–17: Shallotte Inlet.

This unit begins at UTM 188067 E, 3756365 N; to 189372 E, 3756093 N; to 188723 E, 3755719 N; to 188187 E, 3755686 N; to 186884 E, 3755740 N; to 186650 E, 3756057 N; to 186852 E, 3756550 N; to 187092 E, 3756825 N; to 186953 E, 3757172 N; to 187838 E, 3757864 N; to 188140 E, 3757846 N; to 189039 E,3757433 N; to 189299 E, 3757432 N; to 189372, 3756093; and thence to point of beginning.

Unit NC–18: Mad Inlet.

This unit begins at UTM 173982 E, 3752907 N; to 173058 E, 3751556 N; to 173369 E, 3752495 N; to 173196 E, 3752754 N; to 173918 E, 3754015 N; to 174269 E, 3754100 N; to 174687 E, 3753774 N; to 174209 E, 3753591 N; to 174236 E, 3753508 N; to 174310 E, 3753426 N; to 174390 E, 3753361 N; to 174461 E, 3753326 N; to 174567 E, 3753230 N; to 174615 E, 3753145 N; to 174661 E, 3752930 N; to 175098 E, 3752417 N; to 173232 E, 3751377 N; to 173058 E, 3751556 N; and thence to point of beginning.

South Carolina

Projection: Universal Transverse Mercator, Zone 17.

Unit SC–1: Waites Island-North.

This unit begins at UTM 725738 E, 3748074 N; to 725022 E, 3748965 N; to 725421 E, 3748836 N; to 726117 E, 3748976 N; to 726635 E, 3748663 N; to 727003 E, 3747708 N; to 724428 E, 3747665 N; to 725022 E, 3748965 N; and thence to point of beginning.

Unit SC–2: Waites Island-South.

This unit begins at UTM 722497 E, 3747416 N; to 721232 E, 3747433 N; to 721637 E, 3747989 N; to 721880 E, 3747881 N; to 722322 E, 3747864 N; to 722652 E, 3747692 N; to 723564 E, 3747800 N; to 723813 E, 3747125 N; to 722587 E, 3746682 N; to 721621 E, 3747319 N; to 721232 E, 3747433 N; and thence to point of beginning.

Unit SC–3: Murrells Inlet/Huntington Beach.

This unit begins at UTM 681799 E, 3710448 N; to 683405 E, 3711863 N; to 683253 E, 3711163 N; to 682806 E, 3710823 N; to 679622 E, 3707732 N; to 679339 E, 3707709 N; to 679152 E, 3707814 N; to 679058 E, 3707991 N; to 679434 E, 3708390 N; to 680068 E, 3709048 N; to 680162 E, 3709436 N; to 680985 E, 3710165 N; to 681360 E, 3710717 N; to 681642 E, 3711521 N; to 681630 E, 3711839 N; to 681726 E, 3712062 N; to 682322 E, 3712585 N; to 683405 E, 3711863 N; and thence to point of beginning.

Unit SC–4: Litchfield.

This unit begins at UTM 675774 E, 3702407 N; to 675960 E, 3701849 N; to 675445 E, 3702217 N; to 675154 E, 3702605 N; to 675351 E, 3702843 N; to 676292 E, 3702499 N; to 675960 E, 3701849 N; and thence to point of beginning.

Unit SC–5: North Inlet.

This unit begins at UTM 670679 E, 3688657 N; to 670915 E, 3690594 N; to 672045 E, 3690325 N; to 671452 E, 3688681 N; to 672078 E, 3688087 N; to 670848 E, 3686174 N; to 670109 E, 3686566 N; to 670366 E, 3687461 N; to 669975 E, 3687628 N; to 669784 E, 3688423 N; to 670422 E, 3689967 N; to 670915; to 3690594; and thence to point of beginning.

Unit SC–6: North Santee Bay Inlet.

This unit begins at UTM 666930 E, 3670041 N; to 668761 E, 3673337 N; to 670056 E, 3672854 N; to 669032 E, 3671114 N; to 664354 E, 3666957 N; to 663812 E, 3665816 N; to 662768 E, 3665817 N; to 662401 E, 3666184 N; to 662478 E, 3666725 N; to 663116 E, 3666938 N; to 663078 E, 3668543 N; to 663445 E, 3668852 N; to 664509 E, 3669992 N; to 665030 E, 3669702 N; to 665030 E, 3669122 N; to 668182 E, 3672003 N; to 668317 E, 3672622 N; to 668761 E, 3673337 N; and thence to point of beginning.

Unit SC–7: Cape Romain.

This unit begins at UTM 650426 E, 3654423 N; to 645739 E, 3653387 N; to 645917 E, 3654156 N; to 647750 E, 3654629 N; to 648164 E, 3654767 N; to 648755 E, 3655102 N; to 649249 E, 3655141 N; to 653349 E, 3655831 N; to 653999 E, 3655496 N; to 654098 E, 3655003 N; to 653309 E, 3652717 N; to 646705 E, 3652618 N; to 645917 E, 3652953 N; to 645739 E, 3653387 N; and thence to point of beginning.

Unit SC–8: Bull Island.

This unit begins at UTM 626370 E, 3638607 N; to 626279 E, 3636892 N; to 624156 E, 3637262 N; to 625149 E, 3638969 N; to 625592 E, 3639566 N; to 627499 E, 3639945 N; to 628203 E, 3639548 N; to 627209 E, 3637217 N; to 626279 E, 3636892 N; and thence to point of beginning.

Unit SC–9: Stono Inlet.

This unit begins at UTM 593829 E, 3610109 N; to 590512 E, 3607811 N; to 590410 E, 3609637 N; to 591273 E, 3610365 N; to 592474 E, 3611430 N; to 594249 E, 3610889 N; to 595433 E, 3612022 N; to

597022 E, 3610517 N; to 594672 E, 3607659 N; to 590512 E, 3607811 N; and thence to point of beginning.

Unit SC–10: Seabrook Island.

This unit begins at UTM 580527 E, 3604821 N; to 581526 E, 3606226 N; to 582236 E, 3605504 N; to 579177 E, 3603020 N; to 578773 E, 3603510 N; to 579201 E, 3603926 N; to 579299 E, 3604415 N; to 579483 E, 3604684 N; to 580229 E, 3605259 N; to 581526 E, 3606226 N; and thence to point of beginning.

Unit SC–11: Deveaux Bank.

This unit begins at UTM 577409 E, 3600595 N; to 576108 E, 3599702 N; to 576042 E, 3601895 N; to 576770 E, 3602567 N; to 578378 E, 3601678 N; to 579011 E, 3599768 N; to 576108 E, 3599702 N; and thence to point of beginning.

Unit SC–12: Otter Island.

This unit begins at UTM 556003 E, 3593013 N; to 555060 E, 3593335 N; to 555155 E, 3593186 N; to 557068 E, 3593749 N; to 557136 E, 3593960 N; to 556993 E, 3594319 N; to 557102 E, 3594624 N; to 557265 E, 3594787 N; to 558059 E, 3594319 N; to 557869 E, 3593295 N; to 557516 E, 3592847 N; to 555481 E, 3592223 N; to 554999 E, 3592209 N; to 554599 E, 3592399 N; to 554368 E, 3592745 N; to 554355 E, 3593132 N; to 555060 E, 3593335 N; and thence to point of beginning.

Unit SC–13: Harbor Island.

This unit begins at UTM 553844 E, 3585199 N; to 553825 E, 3585982 N; to 554466 E, 3585472 N; to 554384 E, 3584628 N; to 553210 E, 3584195 N; to 553249 E, 3585220 N; to 553825 E, 3585982 N; and thence to point of beginning.

Unit SC–14: Caper's Island.

This unit begins at UTM 540394 E, 3571212 N; to 538947 E, 3571753 N; to 539380 E, 3571882 N; to 539696 E, 3571718 N; to 539848 E, 3571390 N; to 541416 E, 3571975 N; to 542470 E, 3572549 N; to 542505 E, 3572911 N; to 542646 E, 3573122 N; to 543020 E, 3573146 N; to 543383 E, 3572701 N; to 543348 E, 3572139 N; to 542856 E, 3571589 N; to 540995 E, 3570629 N; to 539579 E, 3570337 N; to 539029 E, 3570501 N; to 538655 E, 3570887 N; to 538666 E, 3571378 N; to 538947 E, 3571753 N; and thence to point of beginning.

Unit SC–15: Hilton Head.

This unit begins at UTM 531383 E, 3563460 N; to 530298 E, 3563633 N; to 530666 E, 3563923 N; to 531301 E, 3564323 N; to 531168 E, 3564714 N; to 531066 E, 3565224 N; to 532311 E, 3564714 N; to 532390 E, 3563774 N; to 532343 E, 3563414 N; to 531951 E, 3562881 N; to 531622 E, 3562717 N; to 531238 E, 3562662 N; to 530557 E, 3563257 N; to 530298 E, 3563633 N; and thence to point of beginning.

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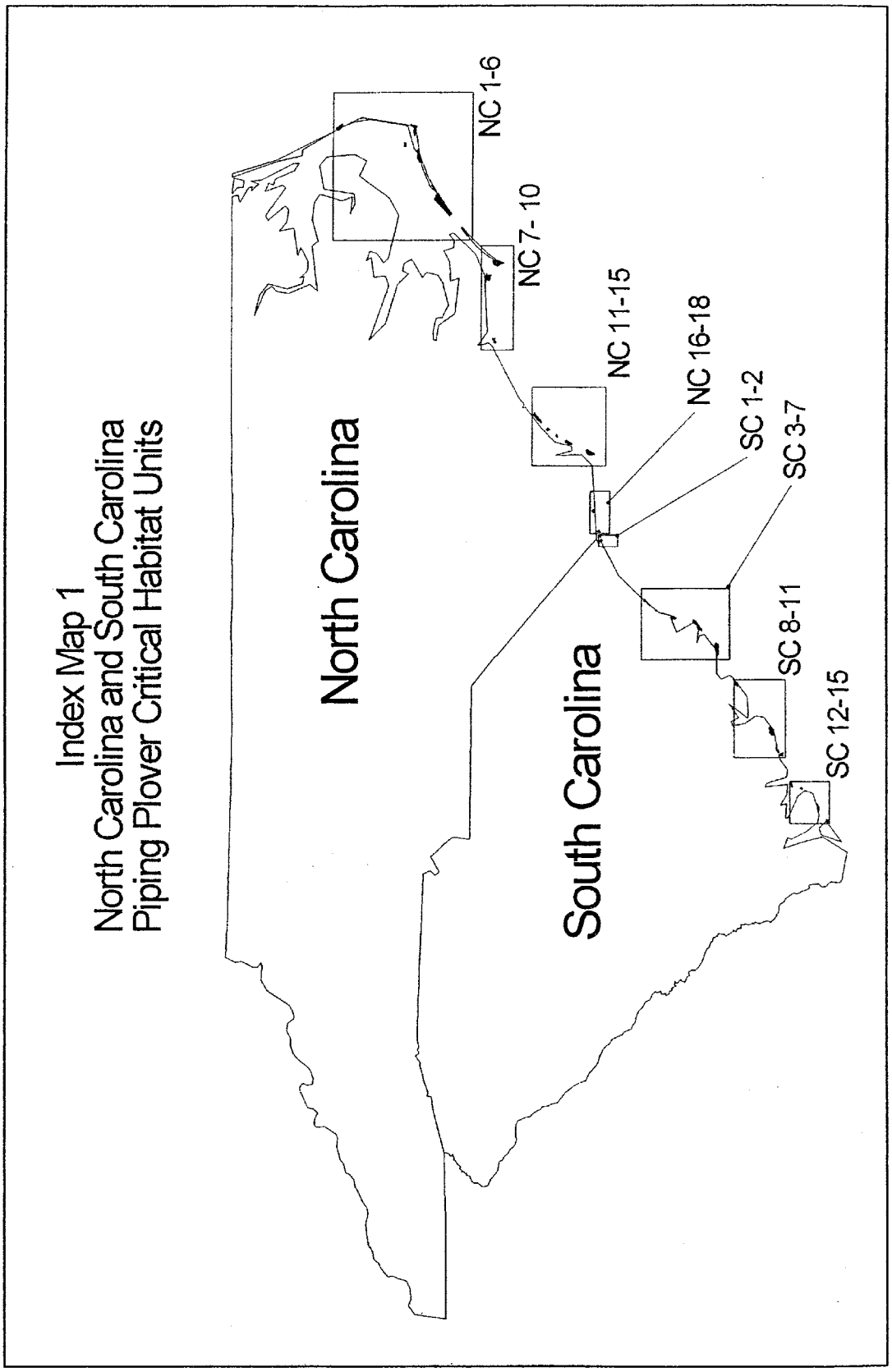

Index Map 1
North Carolina and South Carolina
Piping Plover Critical Habitat Units
North Carolina
South Carolina
NC 1-6
NC 7- 10
NC 11-15
NC 16-18
SC 1-2
SC 3-7
SC 8-11
SC 12-15

Georgia

Projection: Universal Transverse Mercator, Zone 17.

Unit GA–1: Tybee Island.

This unit begins at UTM 514045 E, 3543880 N; to 512869 E, 3542737 N; to 512863 E, 3542746 N; to 512801 E, 3542709 N; to 512622 E, 3543154 N; to 512962 E, 3543425 N; to 513345 E, 3543605 N; to 513548 E, 3543895 N; to 513715 E, 3544111 N; to 513839 E, 3544204 N; to 514018 E, 3544253 N; to 514271 E, 3544154 N; to 514759 E, 3543679 N; to 514784 E, 3543623 N; to 514926 E, 3543605 N; to 515037 E, 3543561 N; to 515154 E, 3543463 N; to 515234 E, 3543327 N; to 515327 E, 3543117 N; to 515352 E, 3542926 N; to 515389 E, 3542660 N; to 515395 E, 3542425 N; to 515376 E, 3542271 N; to 514984 E, 3542331 N; to 514984 E, 3542331 N; to 514913 E, 3542995 N; to 514843 E, 3543127 N; to 514580 E, 3543152 N; to 514358 E, 3543443 N; to 514003 E, 3543752 N; to 513880 E, 3543606 N; to 513841 E, 3543505 N; to 513562 E, 3543170 N; to 513175 E, 3542992 N; to 512939 E, 3542834 N; to 512869 E, 3542737 N; to 514184 E, 3543484 N; to 512869 E, 3542737 N; to 512939 E, 3542834 N; to 513175 E, 3542992 N; to 513562 E, 3543170 N; to 513841 E, 3543505 N; to 513880 E, 3543606 N; to 514003 E, 3543752 N; to 514358 E, 3543443 N; to 514580 E, 3543152 N; to 514843 E, 3543127 N; to 514913 E, 3542995 N; to 514984 E, 3542331 N; to 514984 E, 3542331 N; to 514938 E, 3542338 N; to 514833 E, 3542802 N; to 514759 E, 3543005 N; to 514488 E, 3543123 N; to 514314 E, 3543302 N; to 514036 E, 3543500 N; to 513901 E, 3543457 N; to 513629 E, 3543166 N; to 513418 E, 3543043 N; to 513178 E, 3542913 N; to 513023 E, 3542790 N; to 512888 E, 3542709 N; to 512869 E, 3542737 N; and thence to point of beginning.

Unit GA–2: Little Tybee Island.

This unit begins at UTM 509343 E, 3534814 N; to 513286 E, 3539174 N; to 513543 E, 3538965 N; to 513832 E, 3537502 N; to 513334 E, 3536859 N; to 511823 E, 3535508 N; to 507305 E, 3532840 N; to 506855 E, 3532856 N; to 506453 E, 3533418 N; to 506227 E, 3534094 N; to 506227 E, 3535187 N; to 506453 E, 3535525 N; to 506854 E, 3535541 N; to 507401 E, 3535091 N; to 507449 E, 3534592 N; to 507337 E, 3534399 N; to 507498 E, 3534303 N; to 507755 E, 3534480 N; to 508285 E, 3535107 N; to 508623 E, 3535476 N; to 510745 E, 3536280 N; to 511003 E, 3536328 N; to 512224 E, 3537213 N; to 512803 E, 3537663 N; to 512642 E, 3538515 N; to 512852 E, 3539174 N; to 512852 E, 3539158 N; to 513286 E, 3539174 N; and thence to point of beginning.

Unit GA–3: North Wassaw Island.

This unit begins at UTM 505704 E, 3530314 N; to 506872 E, 3530309 N; to 506861 E, 3530033 N; to 506769 E, 3529838 N; to 505601 E, 3528947 N; to 505355 E, 3528824 N; to 504997 E, 3528947 N; to 504393 E, 3530750 N; to 504516 E, 3531108 N; to 504997 E, 3531477 N; to 505632 E, 3531354 N; to 506728 E, 3530616 N; to 506872 E, 3530309 N; and thence to point of beginning.

Unit GA–4: South Wassaw Island.

This unit begins at UTM 500497 E, 3525400 N; to 500204 E, 3526469 N; to 500350 E, 3526442 N; to 501364 E, 3525756 N; to 501583 E, 3525546 N; to 501629 E, 3525327 N; to 501602 E, 3525135 N; to 501282 E, 3524596 N; to 500807 E, 3524167 N; to 500468 E, 3524048 N; to 500030 E, 3524030 N; to 499701 E, 3524158 N; to 499345 E, 3524550 N; to 499217 E, 3524916 N; to 499317 E, 3525354 N; to 499948 E, 3525811 N; to 500204 E, 3526469 N; and thence to point of beginning.

Unit GA–5: Ossabaw Island.

This unit begins at UTM 494565 E, 3516852 N; to 488807 E, 3511647 N; to 490483 E, 3513297 N; to 494937 E, 3518190 N; to 494689 E, 3520527 N; to 494882 E, 3521104 N; to 495432 E, 3521599 N; to 496257 E, 3521489 N; to 496779 E, 3521160 N; to 497109 E, 3520500 N; to 497164 E, 3519592 N; to 496614 E, 3518465 N; to 492903 E, 3513489 N; to 489274 E, 3510768 N; to 488944 E, 3510850 N; to 488779 E, 3511152 N; to 488807 E, 3511647 N; and thence to point of beginning.

Unit GA–6: St. Catherine's Island Bar.

This unit begins at UTM 488767 E, 3506356 N; to 487546 E, 3507411 N; to 487906 E, 3507591 N; to 488610 E, 3507442 N; to 488861 E, 3507278 N; to 489464 E, 3506738 N; to 489698 E, 3506378 N; to 489910 E, 3505618 N; to 489934 E, 3505258 N; to 489855 E, 3505078 N; to 489612 E, 3504820 N; to 489252 E, 3504773 N; to 488775 E, 3504960 N; to 487960 E, 3505869 N; to 487546 E, 3507411 N; and thence to point of beginning.

Unit GA–7: McQueen's Inlet.

This unit begins at UTM 486849 E, 3501058 N; to 488316 E, 3499565 N; to 487446 E, 3497726 N; to 485845 E, 3496916 N; to 485469 E, 3497153 N; to 485232 E, 3498102 N; to 485529 E, 3500929 N; to 485944 E, 3502075 N; to 486794 E, 3504091 N; to 487150 E, 3504289 N; to 487486 E, 3504131 N; to 487920 E, 3502629 N; to 488316 E, 3499565 N; and thence to point of beginning.

Unit GA–8: St. Catherine's Island.

This unit begins at UTM 483219 E, 3492370 N; to 483571 E, 3490934 N; to 483221 E, 3490878 N; to 482844 E, 3490926 N; to 482507 E, 3491248 N; to 482298 E, 3491381 N; to 482081 E, 3491779 N; to 482046 E, 3492017 N; to 482075 E, 3492136 N; to 482047 E, 3492695 N; to 482200 E, 3493038 N; to 482655 E, 3493478 N; to 482865 E, 3493534 N; to 483046 E, 3493499 N; to 483123 E, 3493443 N; to 484073 E, 3492513 N; to 484235 E, 3492478 N; to 484388 E, 3492360 N; to 484479 E, 3492220 N; to 484500 E, 3491863 N; to 484032 E, 3491290 N; to 483571 E, 3490934 N; and thence to point of beginning.

Unit GA–9: Blackbeard Island.

This unit begins at UTM 482718 E, 3487827 N; to 482480 E, 3485399 N; to 482275 E, 3485422 N; to 482048 E, 3485558 N; to 481934 E, 3485899 N; to 482059 E, 3486263 N; to 482833 E, 3486946 N; to 481843 E, 3488220 N; to 481081 E, 3488721 N; to 480842 E, 3488573 N; to 480716 E, 3488334 N; to 480341 E, 3488038 N; to 480080 E, 3488357 N; to 479818 E, 3488721 N; to 480216 E, 3489290 N; to 480501 E, 3489551 N; to 481046 E, 3489722 N; to 481331 E, 3489676 N; to 481650 E, 3489540 N; to 482127 E, 3489187 N; to 482833 E, 3488550 N; to 483834 E, 3486957 N; to 483823 E, 3486457 N; to 482480 E, 3485399 N; and thence to point of beginning.

Unit GA–10: Sapelo Island.

This unit begins at UTM 476364 E, 3476367 N; to 476251 E, 3475072 N; to 476177 E, 3474958 N; to 475469 E, 3474930 N; to 475516 E, 3475423 N; to 475873 E, 3476907 N; to 476845 E, 3477487 N; to 477398 E, 3477190 N; to 477230 E, 3476799 N; to 476251 E, 3475072 N; and thence to point of beginning.

Unit GA–11: Wolf Island.

This unit begins at UTM 472441 E, 3469004 N; to 471312 E, 3471617 N; to 472082 E, 3472191 N; to 473170 E, 3470155 N; to 473762 E, 3464919 N; to 470581 E, 3464979 N; to 470522 E, 3465611 N; to 470917 E, 3465986 N; to 472616 E, 3466006 N; to 472597 E, 3467765 N; to 471925 E, 3468219 N; to 471253 E, 3469760 N; to 471095 E, 3470254 N; to 471312 E, 3471617 N; and thence to point of beginning.

Unit GA–12: Egg Island Bar.

This unit begins at UTM 474259 E, 3463796 N; to 472638 E, 3463452 N; to 473852 E, 3464868 N; to 475673 E, 3464041 N; to 475084 E, 3462422 N; to 472914 E, 3462863 N; to 472638 E, 3463452 N; and thence to point of beginning.

Unit GA–13: Little St. Simon's Island.

This unit begins at UTM 473959 E, 3457909 N; to 471057 E, 3461394 N; to 471378 E, 3462168 N; to 471858 E, 3461981 N; to 472365 E, 3462301 N; to 473458 E, 3462568 N; to 475045 E, 3458500 N; to 472458 E, 3451938 N; to 470483 E, 3452258 N; to 470844 E, 3454379 N; to 471671 E, 3453899 N; to 473351 E, 3458593 N; to 472684 E, 3461261 N; to 471057 E, 3461394 N; and thence to point of beginning.

Unit GA–14: Sea/St. Simon's Island.

This unit begins at UTM 465847 E, 3447672 N; to 467440 E, 3449252 N; to 465170 E, 3445115 N; to 464474 E, 3445591 N; to 464963 E, 3445994 N; to 465048 E, 3447568 N; to 466524 E, 3449667 N; to 467440 E, 3449252 N; and thence to point of beginning.

Unit GA–15: Jekyll Island.

This unit begins at UTM 459063 E, 3431131 N; to 458282 E, 3432359 N; to 458654 E, 3432379 N; to 458757 E, 3431439 N; to 459170 E, 3431419 N; to 459470 E, 3431553 N; to 459728 E, 3431894 N; to 460182 E, 3432503 N; to 460657 E, 3432028 N; to 459697 E, 3430510 N; to 458013 E, 3430592 N; to 458075 E, 3432080 N; to 458282 E, 3432359 N; and thence to point of beginning.

Unit GA–16: Cumberland Island.

This unit begins at UTM 459712 E, 3413753 N; to 462435 E, 3425693 N; to 461935 E, 3418756 N; to 459288 E, 3410816 N; to 456498 E, 3404451 N; to 457929 E, 3397513 N; to 454896 E, 3398157 N; to 455297 E, 3398901 N; to 456384 E, 3398844 N; to 455698 E, 3401647 N; to 455812 E, 3406911 N; to 458702 E, 3412147 N; to 460533 E, 3418613 N; to 460504 E, 3422131 N; to 460561 E, 3424020 N; to 460961 E,

3425965 N; to 461305 E, 3426423 N; to 462435 E, 3425693 N; and thence to point of beginning.

Florida

Projection: Albers Equal-Area, Units: Meters, Datum: HPGN, Parameters: 1st Standardparallel: 24 0 0; 2nd Standard parallel: 31 30 0; Central meridian: −84 0 0; Latitude of projection reference: 24 0 0; False easting: 400000; False northing: 0.

Unit FL–1: Big Lagoon.

This unit begins at UTM 72604 E, 704871 N; to 74167 E, 705290 N; to 74912 E, 705403 N; to 74994 E, 704610 N; to 73688 E, 704444 N; to 72981 E, 704354 N; to 72070 E, 704239 N; to 71486 E, 704670 N; to 71247 E, 704847 N; to 71652 E, 704908 N; to 73425 E, 705177 N; to 74167 E, 705290 N; and thence to point of beginning.

Unit FL–2: Big Sabine.

This unit begins at UTM 108301 E, 707635 N; to 109133 E, 711008 N; to 110549 E, 711021 N; to 111989 E, 707573 N; to 104992 E, 706101 N; to 104637 E, 707641 N; to 104449 E, 708456 N; to 104189 E, 709582 N; to 105949 E, 710427 N; to 105964 E, 710434 N; to 107118 E, 710988 N; to 109118 E, 711007 N; to 109133 E, 711008 N; and thence to point of beginning.

Unit FL–3: Navarre Beach.

This unit begins at UTM 126686 E, 711110 N; to 127659 E, 713103 N; to 128179 E, 713103 N; to 128179 E, 712988 N; to 128179 E, 712115 N; to 128179 E, 711547 N; to 128179 E, 710207 N; to 125193 E, 710207 N; to 125193 E, 713091 N; to 125193 E, 713103 N; to 125415 E, 713103 N; to 127659 E, 713103 N; and thence to point of beginning.

Unit FL–4: Marifarms.

This unit begins at UTM 232704 E, 697981 N; to 231359 E, 700066 N; to 233004 E, 698658 N; to 233244 E, 698845 N; to 234097 E, 697832 N; to 233491 E, 697779 N; to 233484 E, 697778 N; to 233657 E, 697272 N; to 233817 E, 697179 N; to 233937 E, 696934 N; to 234471 E, 695845 N; to 233071 E, 695285 N; to 230444 E, 699618 N; to 231338 E, 700085 N; to 231351 E, 700073 N; to 231359 E, 700066 N; and thence to point of beginning.

Unit FL–5: Shell/Crooked Islands.

This unit begins at UTM 247749 E, 671302 N; to 234803 E, 681585 N; to 235353 E, 680799 N; to 238362 E, 678161 N; to 241000 E, 677050 N; to 242434 E, 675662 N; to 244193 E, 675060 N; to 244795 E, 674319 N; to 245037 E, 674259 N; to 245135 E, 674234 N; to 245143 E, 674226 N; to 245176 E, 674205 N; to 245218 E, 674190 N; to 245246 E, 674169 N; to 245263 E, 674141 N; to 245287 E, 674120 N; to 245307 E, 674089 N; to 245339 E, 674071 N; to 245374 E, 674054 N; to 245397 E, 674029 N; to 245417 E, 674009 N; to 245471 E, 673975 N; to 245511 E, 673955 N; to 245559 E, 673925 N; to 245594 E, 673905 N; to 245648 E, 673888 N; to 245683 E, 673865 N; to 245732 E, 673837 N; to 245783 E, 673817 N; to 245821 E, 673814 N; to 245863 E, 673828 N; to 245892 E, 673836 N; to 245943 E, 673814 N; to 245980 E, 673785 N; to 245994 E, 673758 N; to 246028 E, 673722 N; to 246064 E, 673710 N; to 246129 E, 673705 N; to 246171 E, 673701 N; to 246210 E, 673694 N; to 246264 E, 673688 N; to 246269 E, 673691 N; to 247063 E, 673116 N; to 247129 E, 673055 N; to 247988 E, 672271 N; to 249290 E, 670666 N; to 250013 E, 669943 N; to 252472 E, 667339 N; to 255075 E, 665315 N; to 255292 E, 664230 N; to 257462 E, 662928 N; to 257802 E, 662827 N; to 260137 E, 662133 N; to 260351 E, 661791 N; to 260499 E, 661554 N; to 261077 E, 660108 N; to 257172 E, 660180 N; to 252906 E, 662856 N; to 249001 E, 667123 N; to 244517 E, 671606 N; 232874 E, 678404 N; to 233121 E, 680310 N; to 234803 E, 681585 N; and thence to point of beginning.

Unit FL–6: Upper St. Joe Peninsula.

This unit begins at UTM 264202 E, 649954 N; to 263328 E, 646264 N; to 261673 E, 646007 N; to 261523 E, 648630 N; to 261822 E, 650954 N; to 263172 E, 653427 N; to 266320 E, 654851 N; to 267669 E, 654326 N; to 268194 E, 652752 N; to 265045 E, 646531 N; to 264205 E, 646401 N; to 263328 E, 646264 N; and thence to point of beginning.

Unit FL–7: Cape San Blas.

This unit begins at UTM 269729 E, 628433 N; to 271100 E, 630960 N; to 271723 E, 631052 N; to 272235 E, 629456 N; to 271202 E, 627733 N; to 270598 E, 627364 N; to 269830 E, 627247 N; to 269098 E, 627364 N; to 268457 E, 627772 N; to 267433 E, 628862 N; to 266829 E, 629874 N; to 266729 E, 630312 N; to 269114 E, 630666 N; to 271100 E, 630960 N; and thence to point of beginning.

Unit FL–8: St. Vincent Island.

This unit begins at UTM 294248 E, 626986 N; to 294995 E, 630938 N; to 295488 E, 631925 N; to 298443 E, 631500 N; to 298567 E, 629943 N; to 298204 E, 628944 N; to 296169 E, 624998 N; to 295267 E, 624103 N; to 294893 E, 623731 N; to 293675 E, 622522 N; to 290632 E, 624008 N; to 290225 E, 625441 N; to 290357 E, 625459 N; to 293622 E, 625901 N; to 295400 E, 629819 N; to 294975 E, 630899 N; to 294995 E, 630938 N; to 282740 E, 630619 N; to 283176 E, 631015 N; to 283824 E, 630103 N; to 283748 E, 630027 N; to 282939 E, 629218 N; to 280760 E, 630321 N; to 282031 E, 631281 N; to 282653 E, 631751 N; to 283176 E, 631015 N; and thence to point of beginning.

Unit FL–9: East St. George Island.

This unit begins at UTM 327537 E, 637190 N; to 331619 E, 642193 N; to 332318 E, 642718 N; to 333986 E, 641977 N; to 334974 E, 639815 N; to 332812 E, 634255 N; to 322619 E, 628880 N; to 321481 E, 630777 N; to 320580 E, 632278 N; to 320889 E, 634131 N; to 331619 E, 642193 N; and thence to point of beginning.

Unit FL–10: Yent Bayou.

This unit begins at UTM 327217 E, 641936 N; to 328104 E, 643576 N; to 328242 E, 643651 N; to 329854 E, 642490 N; to 326458 E, 639739 N; to 324753 E, 641673 N; to 324737 E, 641691 N; to 324716 E, 641715 N; to 324702 E, 641730 N; to 324696 E, 641738 N; to 325103 E, 641958 N; to 326375 E, 642644 N; to 326446 E, 642682 N; to 326575 E, 642752 N; to 326589 E, 642759 N; to 326715 E, 642827 N; to 326752 E, 642847 N; to 326764 E, 642853 N; to 326877 E, 642915 N; to 327281 E, 643132 N; to 327760 E, 643391 N; to 328104 E, 643576 N; and thence to point of beginning.

Unit FL–11: Carabelle Beach.

This unit begins at UTM 334905 E, 646117 N; to 334194 E, 647675 N; to 334880 E, 648086 N; to 335351 E, 647832 N; to 336872 E, 646655 N; to 336438 E, 645696 N; to 335333 E, 645225 N; to 333576 E, 645460 N; to 332762 E, 646818 N; to 333118 E, 647032 N; to 334194 E, 647675 N; and thence to point of beginning.

Unit FL–12: Lanark Reef.

This unit begins at UTM 344382 E, 651062 N; to 340519 E, 651005 N; to 346705 E, 654054 N; to 347414 E, 653239 N; to 347503 E, 652530 N; to 346989 E, 651360 N; to 342150 E, 649180 N; to 340767 E, 650084 N; to 340519 E, 651005 N; and thence to point of beginning.

Unit FL–13: Phipps Preserve.

This unit begins at UTM 358696 E, 655615 N; to 359499 E, 655877 N; to 359048 E, 653677 N; to 357606 E, 654056 N; to 356217 E, 655336 N; to 355965 E, 656382 N; to 357606 E, 657500 N; to 360022 E, 656653 N; to 359499 E, 655877 N; and thence to point of beginning.

Unit FL–14: Hagens Cove.

This unit begins at UTM 439463 E, 640163 N; to 442273 E, 638847 N; to 439808 E, 636998 N; to 438636 E, 638439 N; to 438060 E, 641782 N; to 440876 E, 642633 N; to 440923 E, 642647 N; to 441672 E, 642493 N; to 443171 E, 639419 N; to 442345 E, 638900 N; to 442273 E, 638847 N; and thence to point of beginning.

Unit FL–15: Anclote Keys.

This unit begins at UTM 512648 E, 465612 N; to 513535 E, 471894 N; to 515000 E, 471826 N; to 516056 E, 460514 N; to 510775 E, 460821 N; to 510707 E, 471997 N; to 513535 E, 471894 N; and thence to point of beginning.

Unit FL–16: Three Rooker Island.

This unit begins at UTM 513409 E, 457484 N; to 512082 E, 459662 N; to 515831 E, 459704 N; to 516087 E, 455870 N; to 511997 E, 455955 N; to 512082 E, 459662 N; and thence to point of beginning.

Unit FL–17: North Honeymoon Island.

This unit begins at UTM 513886 E, 453853 N; to 513365 E, 452398 N; to 512410 E, 452335 N; to 512620 E, 455050 N; to 515884 E, 455099 N; to 515467 E, 454636 N; to 514430 E, 453483 N; to 514397 E, 452465 N; to 513365 E, 452398 N; and thence to point of beginning.

Unit FL–18: South Honeymoon Island.

This unit begins at UTM 516037 E, 450451 N; to 515090 E, 449543 N; to 514527 E, 450348 N; to 515332 E, 450683 N; to 515729 E, 450848 N; to 515944 E, 450937 N; to 515965 E, 450946 N; to 516547 E, 450752 N; to 516698 E, 449817 N; to 516724 E, 449653 N; to 516667 E, 449661 N; to 516267 E, 449721 N; to 516267 E, 449721 N; to 516024 E, 449757 N; to 515965 E, 449766 N; to 515944 E, 449761 N; to 515217 E, 449572 N; to 515092 E, 449540 N; to 515090 E, 449543 N; and thence to point of beginning.

Unit FL–19: Caladesi Island.

This unit begins at UTM 514720 E, 447872 N; to 516267 E, 449721 N; to 516663 E, 449634 N; to 516724 E, 449621 N; to 516645 E, 449532 N; to 516191 E, 449023 N; to 515302 E, 446566 N; to 515325 E, 446430 N;

to 515480 E, 445484 N; to 513266 E, 445564 N; to 513315 E, 445564 N; to 514203 E, 449281 N; to 515076 E, 449540 N; to 515090 E, 449543 N; to 515090 E, 449543 N; to 515092 E, 449540 N; to 515217 E, 449572 N; to 515944 E, 449761 N; to 515965 E, 449766 N; to 516024 E, 449757 N; to 516267 E, 449721 N; and thence to point of beginning.

Unit FL–20: Shell Key and Mullet Key.

This unit begins at UTM 522755 E, 405904 N; to 524490 E, 402622 N; to 522296 E, 402015 N; to 522083 E, 405134 N; to 521682 E, 406859 N; to 522083 E, 408820 N; to 524683 E, 408939 N; to 524730 E, 408561 N; to 525084 E, 408112 N; to 524234 E, 407875 N; to 523903 E, 406670 N; to 524683 E, 405347 N; to 524163 E, 405134 N; to 524177 E, 405090 N; to 524588 E, 403811 N; to 524517 E, 402629 N; to 524490 E, 402622 N; and thence to point of beginning.

Unit FL–21: Egmont Key.

This unit begins at UTM 521928 E, 399050 N; to 524187 E, 396840 N; to 524189 E, 396828 N; to 524063 E, 396829 N; to 520449 E, 396853 N; to 519988 E, 399087 N; to 520498 E, 401102 N; to 523582 E, 401054 N; to 524187 E, 396840 N; and thence to point of beginning.

Unit FL–22: Cayo Costa.

This unit begins at UTM 572184 E, 297955 N; to 573556 E, 299054 N; to 573567 E, 299018 N; to 573572 E, 299002 N; to 573591 E, 298942 N; to 573605 E, 298896 N; to 573629 E, 298817 N; to 573666 E, 298696 N; to 573674 E, 298671 N; to 573716 E, 298533 N; to 573785 E, 298310 N; to 573790 E, 298295 N; to 573795 E, 298277 N; to 573804 E, 298247 N; to 573809 E, 298232 N; to 573828 E, 298171 N; to 573828 E, 298171 N; to 573847 E, 298107 N; to 573851 E, 298095 N; to 573857 E, 298077 N; to 573890 E, 297969 N; to 573896 E, 297948 N; to 573903 E, 297925 N; to 573923 E, 297862 N; to 573932 E, 297831 N; to 573939 E, 297809 N; to 574015 E, 297563 N; to 574029 E, 297515 N; to 574039 E, 297485 N; to 574267 E, 296743 N; to 574781 E, 295073 N; to 574799 E, 295016 N; to 574815 E, 294961 N; to 574756 E, 294950 N; to 574695 E, 294940 N; to 574662 E, 294934 N; to 573024 E, 294644 N; to 570802 E, 298158 N; to 571573 E, 300539 N; to 573138 E, 300275 N; to 573183 E, 300267 N; to 573556 E, 299054 N; and thence to point of beginning.

Unit FL–23: North Captiva Island.

This unit begins at UTM 576601 E, 289017 N; to 577848 E, 287371 N; to 577876 E, 286985 N; to 577877 E, 286979 N; to 577875 E, 286979 N; to 574997 E, 286458 N; to 574770 E, 289201 N; to 575042 E, 290449 N; to 577763 E, 290879 N; to 577695 E, 289451 N; to 577796 E, 288081 N; to 577848 E, 287371 N; and thence to point of beginning.

Unit FL–24: Captiva Island and Sanibel Island.

This unit begins at UTM 580844 E, 275784 N; to 581804 E, 275109 N; to 581117 E, 274510 N; to 579744 E, 276673 N; to 580630 E, 276777 N; to 580809 E, 276798 N; to 580983 E, 276973 N; to 581200 E, 276465 N; to 581882 E, 275176 N; to 581804 E, 275109 N; and thence to point of beginning.

Unit FL–25: Bunch Beach.

This unit begins at UTM 600837 E, 275733 N; to 602992 E, 275407 N; to 602748 E, 274477 N; to 602656 E, 274125 N; to 602609 E, 273948 N; to 597678 E, 276408 N; to 598020 E, 277081 N; to 598028 E, 277095 N; to 598365 E, 277228 N; to 599269 E, 277252 N; to 600813 E, 276890 N; to 601838 E, 276577 N; to 602320 E, 276227 N; to 603068 E, 275696 N; to 602992 E, 275407 N; and thence to point of beginning.

Unit FL–26: Estero Island.

This unit begins at UTM 608152 E, 269492 N; to 607538 E, 271349 N; to 608151 E, 270790 N; to 608840 E, 269977 N; to 608999 E, 269128 N; to 609777 E, 268333 N; to 610000 E, 268285 N; to 610024 E, 268280 N; to 610342 E, 267962 N; to 609423 E, 267149 N; to 606719 E, 270914 N; to 607484 E, 271320 N; to 607538 E, 271349 N; and thence to point of beginning.

Unit FL–27: Marco Island.

This unit begins at UTM 625861 E, 217665 N; to 625978 E, 221782 N; to 626119 E, 221805 N; to 625781 E, 220819 N; to 626654 E, 221073 N; to 626936 E, 221044 N; to 626702 E, 220780 N; to 626288 E, 220312 N; to 625865 E, 219861 N; to 625076 E, 219185 N; to 625076 E, 218565 N; to 625442 E, 218142 N; to 626034 E, 217945 N; to 626401 E, 217240 N; to 626936 E, 216508 N; to 627218 E, 215381 N; to 627274 E, 214648 N; to 627443 E, 213916 N; to 627492 E, 213801 N; to 627528 E, 213718 N; to 628007 E, 212084 N; to 626654 E, 211887 N; to 626062 E, 215522 N; to 624992 E, 217269 N; to 623977 E, 218987 N; to 624569 E, 220594 N; to 624428 E, 221523 N; to 625105 E, 221636 N; to 625978 E, 221782 N; and thence to point of beginning.

Unit FL–28: Marquesas Keys.

This unit begins at UTM 589947 E, 64900 N; to 585588 E, 66994 N; to 586950 E, 68633 N; to 588990 E, 69370 N; to 595167 E, 67613 N; to 592390 E, 59169 N; to 585688 E, 60426 N; to 584230 E, 60700 N; to 583890 E, 64950 N; to 585588 E, 66994 N; and thence to point of beginning.

Unit FL–29: Boca Grande/Woman/Ballast Keys.

This unit begins at UTM 604093 E, 60521 N; to 601724 E, 62876 N; to 608389 E, 60949 N; to 607504 E, 57503 N; to 600251 E, 58727 N; to 599661 E, 61810 N; to 601157 E, 62785 N; to 601724 E, 62876 N; and thence to point of beginning.

Unit FL–30: Bahia Honda/Ohio Keys.

This unit begins at UTM 676754 E, 76504 N; to 673882 E, 76942 N; to 677121 E, 79648 N; to 680417 E, 76790 N; to 674491 E, 73970 N; to 673882 E, 76942 N; and thence to point of beginning.

Unit FL–31: Lower Matecumbe Key.

This unit begins at UTM 729501 E, 100495 N; to 729673 E, 99910 N; to 729627 E, 99849 N; to 728898 E, 100507 N; to 729698 E, 100998 N; to 730225 E, 100321 N; to 730129 E, 100270 N; to 729837 E, 100115 N; to 729718 E, 99968 N; to 729673 E, 99910 N; to 729753 E, 98283 N; to 730155 E, 99108 N; to 730785 E, 98456 N; to 728947 E, 97225 N; to 728371 E, 97915 N; to 728393 E, 97930 N; to 729212 E, 98476 N; to 729321 E, 98488 N; to 729384 E, 98437 N; to 729571 E, 98534 N; to 729680 E, 98431 N; to 729764 E, 98630 N; to 729911 E, 98785 N; to 730049 E, 98993 N; to 730155 E, 99108 N; to 730155 E, 99108 N; and thence to point of beginning.

Unit FL–32: Sandy Key/Carl Ross Key.

This unit begins at UTM 700920 E, 118607 N; to 699036 E, 119411 N; to 700003 E, 120708 N; to 702225 E, 120247 N; to 703456 E, 117278 N; to 699894 E, 115914 N; to 698904 E, 118355 N; to 699036 E, 119411 N; and thence to point of beginning.

Unit FL–33: St. Lucie Inlet.

This unit begins at UTM 781031 E, 355393 N; to 782209 E, 356209 N; to 782486 E, 355067 N; to 780631 E, 353782 N; to 779311 E, 355959 N; to 778791 E, 356297 N; to 777777; to 356957; to 779204 E, 357243 N; to 781666 E, 358456 N; to 782209 E, 356209 N; and thence to point of beginning.

Unit FL–34: Ponce de Leon Inlet.

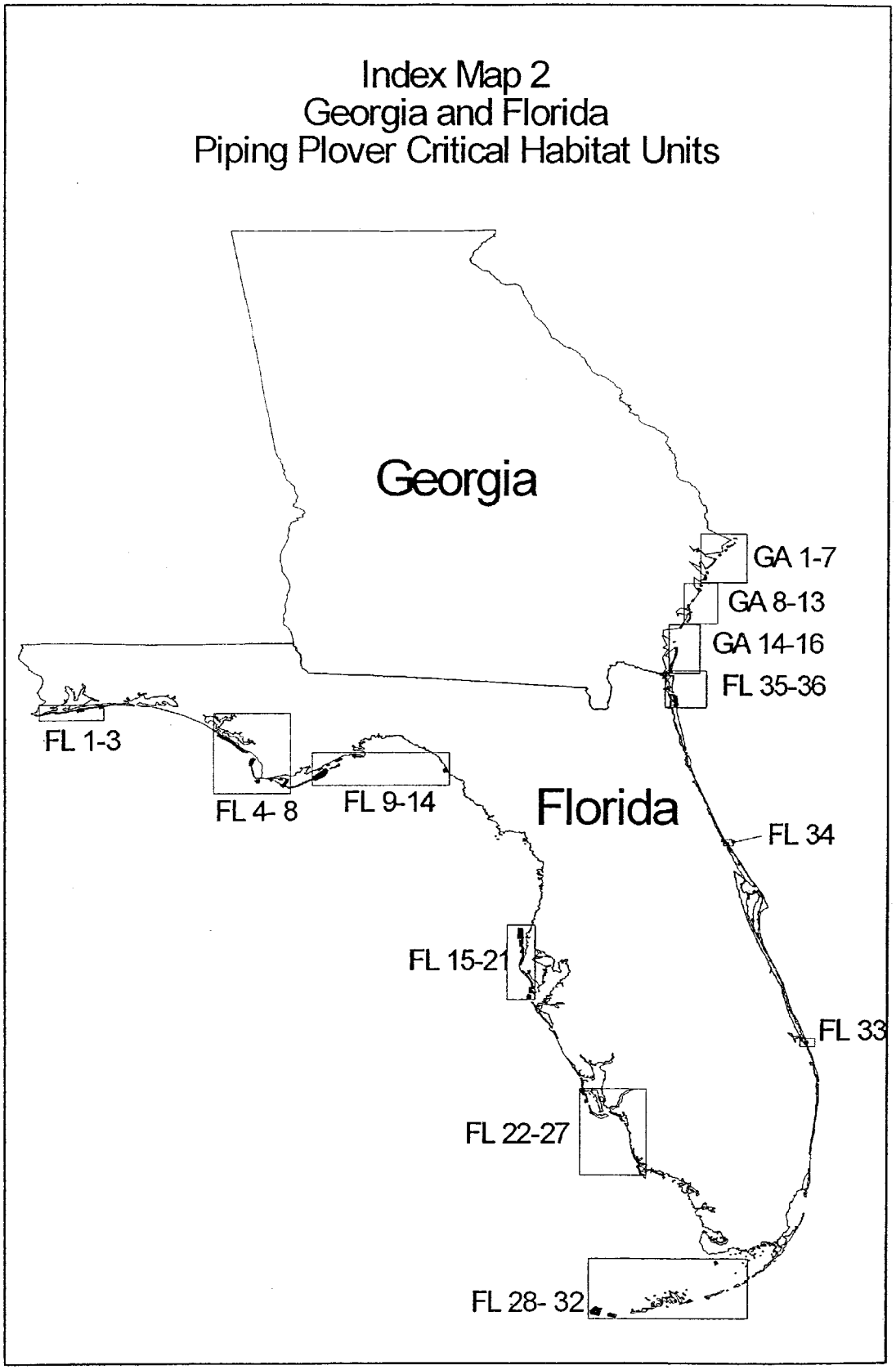
This unit begins at UTM 699895 E, 567004 N; to 699342 E, 567430 N; to 700394 E, 568058 N; to 701612 E, 566385 N; to 700745 E, 565653 N; to 700560 E, 565768 N; to 699971 E, 566138 N; to 699619 E, 565907 N; to 699573 E, 565877 N; to 699510 E, 565835 N; to 699310 E, 565704 N; to 698309 E, 566778 N; to 698577 E, 566974 N; to 698885 E, 567158 N; to 699134 E, 567306 N; to 699171 E, 567328 N; to 699342 E, 567430 N; and thence to point of beginning.

Unit FL–35: Huguenot.

This unit begins at UTM 648016 E, 718082 N; to 647534 E, 724455 N; to 649878 E, 723134 N; to 650539 E, 715996 N; to 651233 E, 712857 N; to 649278 E, 712969 N; to 648920 E, 712989 N; to 647929 E, 713187 N; to 646739 E, 712791 N; to 646854 E, 713598 N; to 646880 E, 713782 N; to 646937 E, 714179 N; to 646984 E, 714454 N; to 647050 E, 714841 N; to 647168 E, 715534 N; to 647367 E, 716096 N; to 647400 E, 717219 N; to 647340 E, 717289 N; to 647003 E, 717682 N; to 646889 E, 718458 N; to 646834 E, 718825 N; to 646829 E, 718860 N; to 646827 E, 718875 N; to 646798 E, 719069 N; to 646743 E, 719440 N; to 646732 E, 719520 N; to 646574 E, 720590 N; to 646759 E, 722102 N; to 646772 E, 722209 N; to 646668 E, 722341 N; to 646144 E, 723002 N; to 645566 E, 723709 N; to 647524 E, 724474 N; to 647534 E, 724472 N; to 647534 E, 724455 N; and thence to point of beginning.

Unit FL–36: Tiger Islands.

This unit begins at UTM 641314 E, 746934 N; to 639468 E, 748336 N; to 639503 E, 748510 N; to 640092 E, 749177 N; to 641689 E, 747037 N; to 642521 E, 745921 N; to 643266 E, 744920 N; to 642908 E, 744302 N; to 642785 E, 744419 N; to 642631 E, 744546 N; to 641224 E, 745710 N; to 639855 E, 746845 N; to 639259 E, 747334 N; to 639292 E, 747473 N; to 639468 E, 748336 N; and thence to point of beginning. insert p. 111a


Index Map 2
Georgia and Florida
Piping Plover Critical Habitat Units
Georgia
GA 1-7
GA 8-13
GA 14-16
FL 35-36
FL 1-3
FL 4- 8
FL 9-14
Florida
FL 34
FL 15-21
FL 33
FL 22-27
FL 28- 32

Alabama

Projection: Universal Transverse Mercator, Zone 16.

Unit AL–1: Isle Aux Herbes.

This unit encompasses Isle Aux Herbes in entirety. This unit begins at UTM 378427 E, 3357011 N; to 378486 E, 3357070 N; to 378279 E, 3357189 N; to 378101 E, 3357411 N; to 378012 E, 3357723 N; to 378086 E, 3358019 N; to 378279 E, 3358182 N; to 378397 E, 3358716 N; to 378427 E, 3358924 N; to 378412 E, 3359443 N; to 378353 E, 3359769 N; to 378397 E, 3360110 N; to 378768 E, 3360391 N; to 379124 E, 3360362 N; to 379420 E, 3360125 N; to 379717 E, 3359635 N; to 379717 E, 3358998 N; to 379643 E, 3358316 N; to 379613 E, 3358123 N; to 379702 E, 3357604 N; to 379924 E, 3357026 N; to 380028 E, 3356641 N; to 379998 E, 3356122 N; to 379954 E, 3355662 N; to 379702 E, 3354728 N; to 379435 E, 3354580 N; to 379124 E, 3354565 N; to 378783 E, 3354698 N; to 378353 E, 3355114 N; to 378204 E, 3355662 N; to 377923 E, 3355899 N; to 377760 E, 3356448 N; to 377775 E, 3356744 N; to 378086 E, 3356996 N; and thence to point of beginning.

Unit AL–2: Dauphin, Little Dauphin, and Pelican Islands.

This unit begins at UTM 371083 E, 3345318 N; to 392178 E, 3351743 N; to 398229 E, 3346603 N; to 395819 E, 3341998 N; to 393999 E, 3341945 N; to 389876 E, 3345746 N; to 371618 E, 3343230 N, thence northwesterly to point of beginning. This unit encompasses Dauphin, Little Dauphin, and Pelican Islands.

Unit AL–3: Fort Morgan.

This unit begins at 401192 E, 3344885 N; to 401534 E, 3345098 N; to 402007 E, 3344340 N; to 401820 E, 3344041 N; to 402876 E, 3344274 N; to 403068 E, 3343313 N; to 402212 E, 3343088 N; to 401562 E, 3343010 N; to 401416 E, 3343019 N; to 401047 E, 3343106 N; to 400885 E, 3343214 N; to 400784 E, 3343360 N; to 400640 E, 3343675 N; to 400602 E, 3343866 N; to 400686 E, 3344143 N; and thence to point of beginning.

Mississippi

Projection: Universal Transverse Mercator, Zone 16.

Unit MS–1: Waveland.

This unit begins at UTM 267756 E, 3349889 N; to 269537 E, 3350370 N; to 270344 E, 3350774 N; to 271296 E, 3351446 N; to 271968 E, 3352365 N; to 272764 E, 3353037 N; to 275060 E, 3354045 N; to 275744 E, 3354617 N; to 276438 E, 3355827 N; to 276450 E, 3356286 N; to 276104 E, 3356761 N; to 276747 E, 3357000 N; to 276899 E, 3356839 N; to 277095 E, 3356504 N; to 277107 E, 3355751 N; to 276170 E, 3354056 N; to 274807 E, 3353025 N; to 273106 E, 3352394 N; to 272361 E, 3351760 N; to 271717 E, 3350899 N; to 270609 E, 3350084 N; to 269762 E, 3349668 N; to 267675 E, 3349042 N; to 267194 E, 3348408 N; to 267225 E, 3347624 N; to 266665 E, 3347301 N; to 266495 E, 3347963 N; to 266579 E, 3348679 N; to 267028 E, 3349452 N; and thence to point of beginning.

Unit MS–2: Henderson Point.

This unit begins at UTM 280338 E, 3354688 N; to 280790 E, 3354728 N; to 281602 E, 3354928 N; to 283013 E, 3355433 N; to 283585 E, 3355606 N; to 283838 E, 3354835 N; to 283678 E, 3354781 N; to 283492 E, 3354835 N; to 283252 E, 3354715 N; to 281988 E, 3354262 N; to 281216 E, 3354063 N; to 280458 E, 3353943 N; to 279433 E, 3353956 N; to 279433 E, 3354715 N; and thence to point of beginning.

Unit MS–3: Pass Christian.

This unit begins at UTM 283925 E, 3355530 N; to 284382 E, 3355904 N; to 285671 E, 3356362 N; to 287168 E, 3356985 N; to 289102 E, 3357422 N; to 290058 E, 3357609 N; to 291139 E, 3358108 N; to 292865 E, 3358815 N; to 293738 E, 3359023 N; to 293863 E, 3358295 N; to 293177 E, 3358129 N; to 292657 E, 3357879 N; to 292137 E, 3357734 N; to 290516 E, 3357006 N; to 287480 E, 3356278 N; to 286503 E, 3355925 N; to 286149 E, 3355759 N; to 284673 E, 3355218 N; to 284403 E, 3355010 N; and thence to point of beginning.

Unit MS–4: Long Beach.

This unit begins at UTM 293933 E, 3359057 N; to 294542 E, 3359478 N; to 295646 E, 3359961 N; to 296402 E, 3360161 N; to 297989 E, 3360791 N; to 298189 E, 3360077 N; to 297411 E, 3359762 N; to 296644 E, 3359467 N; to 295992 E, 3359310 N; to 294658 E, 3358690 N; to 294395 E, 3358427 N; and thence to point of beginning.

Unit MS–5: Gulfport.

This unit begins at UTM 299324 E, 3361159 N; to 300185 E, 3361611 N; to 301919 E, 3362147 N; to 302581 E, 3362168 N; to 303012 E, 3362378 N; to 303475 E, 3362441 N; to 303590 E, 3361727 N; to 303212 E, 3361653 N; to 302781 E, 3361453 N; to 301867 E, 3361359 N; to 300333 E, 3360886 N; to 299702 E, 3360550 N; and thence to point of beginning.

Unit MS–6: Mississippi City.

This unit begins at UTM 303717 E, 3361711 N; to 303536 E, 3362466 N; to 304291 E, 3362647 N; to 305260 E, 3362827 N; to 306163 E, 3363139 N; to 307493 E, 3363468 N; to 311237 E, 3363829 N; to 311286 E, 3363107 N; to 307641 E, 3362729 N; and thence to point of beginning.

Unit MS–7: Beauvoir.

This unit begins at UTM 311549 E, 3363796 N; to 312075 E, 3363895 N; to 312075 E, 3363123 N; to 311533 E, 3363090 N; and thence to point of beginning.

Unit MS–8: Biloxi West.

This unit begins at UTM 312255 E, 3363780 N; to 313536 E, 3363944 N; to 315605 E, 3364043 N; to 317657 E, 3364026 N; to 318051 E, 3363960 N; to 317969 E, 3363189 N; to 316065 E, 3363336 N; to 314652 E, 3363205 N; to 312682 E, 3363107 N; to 312419 E, 3363057 N; and thence to point of beginning.

Unit MS–9: Biloxi East.

This unit begins at UTM 319020 E, 3363813 N; to 319316 E, 3363895 N; to 320498 E, 3363731 N; to 320416 E, 3363024 N; to 319381 E, 3363139 N; to 319119 E, 3363057 N; and thence to point of beginning.

Unit MS–10: Ocean Springs West.

This unit begins at UTM 323027 E, 3365750 N; to 323897 E, 3365438 N; to 324997 E, 3364814 N; to 324554 E, 3364207 N; to 323848 E, 3364617 N; to 323240 E, 3364896 N; to 322698 E, 3365110 N; and thence to point of beginning.

Unit MS–11: Ocean Springs East.

This unit begins at UTM 325670 E, 3364338 N; to 326409 E, 3363796 N; to 326967 E, 3363681 N; to 327427 E, 3363731 N; to 327805 E, 3364043 N; to 328314 E, 3363648 N; to 327723 E, 3363057 N; to 326787 E, 3362942 N; to 326229 E, 3363090 N; to 325736 E, 3363369 N; to 325260 E, 3363747 N; and thence to point of beginning.

Unit MS–12: Deer Island.

This unit encompasses Deer Island in entirety. This unit begins at UTM 321533 E, 3361399 N; to 319662 E, 3362329 N; to 319218 E, 3362691 N; to 318602 E, 3362714 N; to 318711 E, 3363223 N; to 319626 E, 3363546 N; to 324209 E, 3361699 N; to 325499 E, 3360487 N; to 325621 E, 3359759 N; to 325363 E, 3359468 N; to 325016 E, 3359473 N; and thence to point of beginning.

Unit MS–13: Round Island.

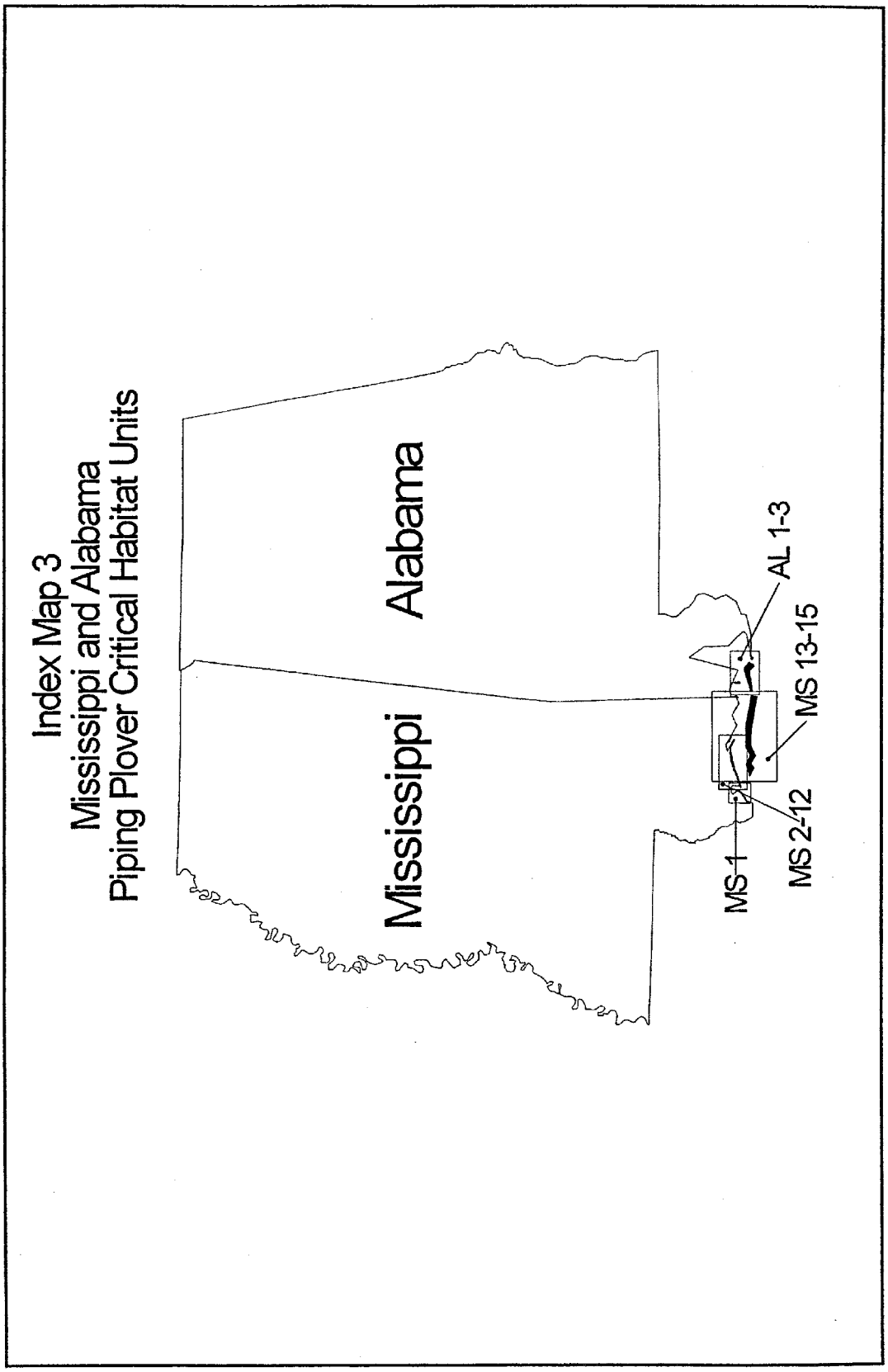
This unit encompasses Round Island in entirety. This unit begins at UTM 347673 E, 3353022 N; to 348061 E, 3352672 N; to 348250 E, 3352289 N; to 348222 E, 3351986 N; to 347891 E, 3351594 N; to 347470 E, 3351456 N; to 347233 E, 3351475 N; to 346997 E, 3351745 N; to 346940 E, 3352043 N; to 346651 E, 3352662 N; to 346618 E, 3352852 N; to 346727 E, 3353169 N; to 346888 E, 3353301 N; to 347086 E, 3353348 N; to 347271 E, 3353306 N; and thence to point of beginning.

Unit MS–14: Mississippi Barrier Islands.

This unit begins at UTM 290469 E, 3346115 N; to 302098 E, 3349286 N; to 309998 E, 3345955 N; to 318634 E, 3350074 N; to 338564 E, 3349808 N; to 367130 E, 3344494 N; to 366200, 3338515, to 334046 E, 3343962 N; to 321026 E, 3344892 N; to 310131 E, 3340242 N; to 302558 E, 3344361 N; to 298398 E, 3341534 N; thence northwesterly to point of beginning. This unit encompasses Cat, East and West Ship, Horn, Spoil, and Petit Bois Islands.

Unit MS–15: North and South Rigolets.

This unit begins at UTM 366028 E, 3360924 N; to 366177 E, 3360549 N; to 366219 E, 3359868 N; to 366097 E, 3359298 N; to 366208 E, 3358902 N; to 366614 E, 3359003 N; to 366918 E, 3358853 N; to 367040 E, 3358499 N; to 366984 E, 3358225 N; to 366457 E, 3357633 N; to 366127 E, 3357492 N; to 365157 E, 3356726 N; to 364542 E, 3356772 N; to 364311 E, 3357045 N; to 364280 E, 3357236 N; to 364379 E, 3357547 N; to 364658 E, 3357841 N; to 365121 E, 3357880 N; to 365540 E, 3358226 N; to 365353 E, 3358519 N; to 365291 E, 3359068 N; to 365371 E, 3359333 N; to 365346 E, 3359848 N; to 365312 E, 3360173 N; to 365122 E, 3360414 N; to 365127 E, 3360796 N; to 365364 E, 3361062 N; to 365667 E, 3361140 N; to 365831 E, 3361100 N; and thence to point of beginning.


Index Map 3
Mississippi and Alabama
Piping Plover Critical Habitat Units
Alabama
Mississippi
AL 1-3
MS 13-15
MS 2-12
MS 1

Louisiana

Projections: Universal Transverse Mercator, Zones 15 and 16.

Unit LA–1: Texas/Louisiana border to eastern Vermilion Parish line (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 549921 E, 3270899 N; to 566322 E, 3267417 N; to 571958 E, 3268197 N; to 577923 E, 3271736 N; to 582480 E, 3273402 N; to 592852 E, 3273900 N; to 593548 E, 3273291 N; to 592282 E, 3272379 N; to 582604 E, 3272411 N; to 578272 E, 3270822 N; to 572228 E, 3267247 N; to 564070 E, 3266639 N; to 533684 E, 3272905 N; to 525059 E, 3276025 N; to 501487 E, 3287178 N; to 482367 E, 3292713 N; to 476081 E, 3293464 N; to 467070 E, 3291634 N; to 453754 E, 3292703 N; to 435729 E, 3290424 N; to 426892 E, 3288473 N; to 419648 E, 3284415 N; to 418566 E, 3284630 N; to 418959 E, 3285566 N; to 426625 E, 3289421 N; to 435613 E, 3291411 N; to 453710 E, 3293699 N; to 466987 E, 3292644 N; to 474538 E, 3294391 N; to 478889 E, 3294275 N; to 494448 E, 3290582 N; to 503238 E, 3287582 N; to 525371 E, 3276955 N; to 533044 E, 3274141 N; and thence to point of beginning.

Unit LA–2: Wax Lake Outlet (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 646782 E, 3269766 N; to 652296 E, 3271086 N; to 654392 E, 3271086 N; to 670855 E, 3263787 N; to 671787 E, 33255322 N; to 658547 E, 3247455 N; to 652529 E, 3250973 N; to 656722 E, 3259205 N; to 654936 E, 3262466 N; to 648180 E, 3261069 N; to 644763 E, 3265573 N; thence northeasterly to point of beginning. This unit encompasses the Wax Lake Outlet and Lower Atchafalaya River Deltas.

Unit LA–3: Point Au Fer Island (Universal Transverse Mercator, Zone 15)

This unit encompasses the small island at the western tip of Point Au Fer Island in entirety. This unit has two subunits. The first subunit begins at UTM 660362 E, 3246187 N; to 660677 E, 3245831 N; to 660809 E, 3245294 N; to 660594 E, 3244817 N; to 660164 E, 3244544 N; to 659870 E, 3244668 N; to 659655 E, 3244980 N; to 659598 E, 3245719 N; to 659892 E, 3246267 N; and thence to point of beginning. The second subunit begins at UTM 688276 E, 3230473 N; to 688513 E, 3230493 N; to 689239 E, 3231156 N; to 689719 E, 3230479 N; to 689101 E, 3229629 N; to 688456 E, 3229355 N; to 687982 E, 3229452 N; to 687340 E, 3229933 N; to 686659 E, 3230000 N; to 686483 E, 3230138 N; to 686095 E, 3230037 N; to 685320 E, 3230088 N; to 684886 E, 3230342 N; to 684541 E, 3230938 N; to 683506 E, 3231763 N; to 683116 E, 3232252 N; to 681730 E, 3233236 N; to 681153 E, 3233006 N; to 679008 E, 3233530 N; to 674128 E, 3233699 N; to 667883 E, 3235988 N; to 666497 E, 3236823 N; to 664425 E, 3238610 N; to 663278 E, 3240153 N; to 661418 E, 3242077 N; to 660332 E, 3243790 N; to 660133 E, 3244344 N; to 660844 E, 3244690 N; to 662060 E, 3242757 N; to 663898 E, 3240858 N; to 665026 E, 3239333 N; to 666965 E, 3237663 N; to 667576 E, 3237238 N; to 668081 E, 3237128 N; to 668326 E, 3236866 N; to 674311 E, 3234674 N; to 679071 E, 3234524 N; to 681153 E, 3234037 N; to 681294 E, 3234104 N; to 681381 E, 3234648 N; to 681855 E, 3234763 N; to 682179 E, 3234426 N; to 682221 E, 3234059 N; to 683400 E, 3233242 N; to 684054 E, 3232541 N; to 684844 E, 3231990 N; to 685198 E, 3231636 N; to 685464 E, 3231096 N; to 686967 E, 3231116 N; to 687132 E, 3230975 N; to 687651 E, 3230868 N; and thence to point of beginning.

Unit LA–4: Isles Dernieres (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 698530 E, 3217432 N; to 708782 E, 3216806 N; to 715277 E, 3216806 N; to 731084 E, 3219388 N; to 731084 E, 3216962 N; to 716920 E, 3213363 N; to 707529 E, 3213910 N; to 698530 E, 3214536 N; thence northerly to point of beginning. This unit encompasses the Isles Dernieres chain.

Unit LA–5: Timbalier Islands to Grand Terre Islands (Universal Transverse Mercator, Zone 15)

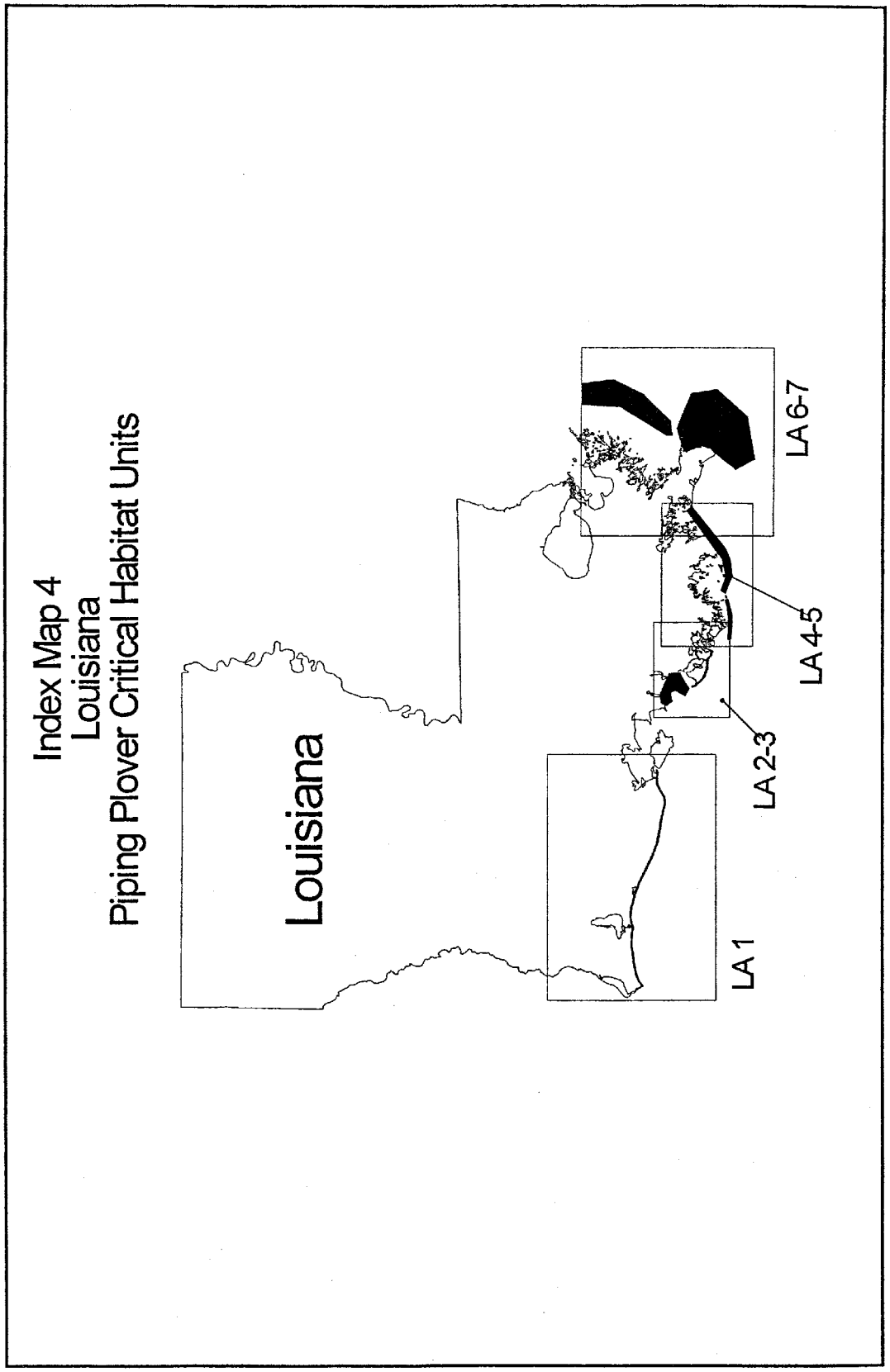
This unit begins at UTM 737901 E, 3223034 N; to 749533 E, 3219087 N; to 763242 E, 3221995 N; to 803331 E, 3250243 N; to 806862 E, 3246089 N; to 773005 E, 3219087 N; to 763865 E, 3215349 N; to 749325 E, 3213479 N; to 735824 E, 3219295 N; thence northerly to point of beginning. This unit encompasses West and East Timbalier, follows MLW from Belle Pass to Cheniere Caminada, Grand Isle, and Grand Terre Islands.

Unit LA–6: Mississippi River Delta. (Universal Transverse Mercator, Zone 16)

This unit begins at UTM 267834 E, 3247846 N; to 268961 E, 3249198 N; to 271503 E, 3250653 N; to 287395 E, 3254768 N; to 315258 E, 3241711 N; to 317534 E, 3220817 N; to 294326 E, 3197342 N; to 259412 E, 3193296 N; to 251566 E, 3208850 N; to 266348 E, 3225720 N; thence northeasterly following Tiger Pass to the Mississippi River; thence to point of beginning. This unit encompasses the Mississippi River delta.

Unit LA–7: Breton Islands and Chandeleur Island Chain (Universal Transverse Mercator, Zone 16)

This unit begins at UTM 310382 E, 3328490 N; to 327636 E, 3327583 N; to 329708 E, 3302375 N; to 316990 E, 3279632 N; to 293519 E, 3258792 N; to 281941 E, 3258032 N; to 282185 E, 3262771 N; to 307096 E, 3298127 N; thence to point of beginning. This unit encompasses Breton Islands and the Chandeleur Island Chain.


Index Map 4
Louisiana
Piping Plover Critical Habitat Units
Louisiana
LA 1
LA 2-3
LA 4-5
LA 6-7

Texas

Projections: Universal Transverse Mercator, Zones 14 and 15.

Unit TX–1: South Bay and Boca Chica (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 685873 E, 2872207 N; thence southwesterly to 685500 E, 2872000 N; thence to 684447 E, 2873206 N; to 683448 E, 2873264 N; to 682935 E, 2872978 N; to 682479 E, 2873691 N; to 681252 E, 2873891 N; thence westerly to 676573 E, 2873834 N; thence northerly to 675546 E, 2879026 N and thence along the Brownsville Ship Channel to 683862 E, 2884018 N; to 685159 E, 2884283 N; thence southerly parallel to the shoreline to 685041 E, 2882500 N; to 685040 E, 2879649 N; to 685338 E, 2875729 N; to 685873 E, 2872208 N; thence to point of beginning.

Unit TX–2: Queen Isabella Causeway (Universal Transverse Mercator, Zone 14)

This is made up of two sub-units. The more northerly sub-unit begins at UTM 683465 E, 2887073 N; thence southerly to 683454 E, 2886979 N; to 683465 E, 2886565 N; thence westerly to 683087 E, 2886542 N; thence northerly to 683075 E, 2886754 N; thence northeasterly to 683205 E, 2886955 N; to 683288 E, 2887050 N; to 683383 E, 2887109 N; thence southeasterly to the point of beginning. The southerly sub-unit begins at UTM 683454 E, 2886423 N; thence southerly to 683489 E, 2886045 N; to 683489 E, 2885939 N; to 683489 E, 2885844 N; to 683489 E, 2885785 N; thence westerly to 683383, 2885750 N; to 683312 E, 2885750 N; thence northwesterly to 683217 E, 2885785 N; to 683158 E, 2885856 N; thence northerly to 683146 E, 2886045 N; to 683111 E, 2886128 N; to 683111 E, 2886246 N; to 683182 E, 2886412 N; and thence easterly to point of beginning.

Unit TX–3: Padre Island (Universal Transverse Mercator, Zone 14)

This unit includes the beach of Padre Island from UTM 660374 E, 2987111 N; to 660873 E, 2987115 N; to 660747 E, 2992864 N; to 660888 E, 2999146 N; to 661150 E, 3003029 N; to 662048 E, 3010653 N; to 663661 E, 3019205 N; to 665497 E, 3026173 N; to 666273 E, 3028714 N; to 667846 E, 3033212 N; to 668149 E, 3034271 N; to 671567 E, 3042803 N; to 673332 E, 3046907 N; to 674139 E, 3048460 N; to 675420 E, 3051375 N; to 675500 E, 3051284 N; to 675218 E, 3050568 N; to 671295 E, 3041835 N; to 668471 E, 3034725 N; to 666596 E, 3029158 N; to 665587 E, 3025830 N; to 664024 E, 3019800 N; to 662824 E, 3014041 N; to 662148 E, 3010280 N; to 661362 E, 3003513 N; to 661069 E, 2999348 N; to 660868 E, 2992702 N; to 661034 E, 2987105 N; to 661368 E, 2983370 N; to 661807 E, 2980583 N; to 662399 E, 2975676 N; to 663022 E, 2971878 N; to 664648 E, 2964434 N; to 665848 E, 2959511 N; to 668972 E, 2947853 N; to 671919 E, 2939214 N; to 672421 E, 2939087 N; to 672635 E, 2937587 N; to 674836 E, 2930642 N; to 676729 E, 2924226 N; to 680368 E, 2910491 N; to 681467 E, 2905154 N; to 682506 E, 2898584 N; to 683065 E, 2894294 N; to 683071 E, 2891861 N; to 683185 E, 2891886 N; to 682858 E, 2893768 N; thence from this point at the beach westerly to 680000 E, 2893665 N and including the width of the island and into the waters of the Laguna Madre; thence northwesterly, paralleling Padre Island to a point in the Land Cut at 652835 E, 2965385 N; thence westerly to 651755 E, 2965790 N; thence southwesterly to 651619 E, 2957672 N; thence southerly to 652835 E, 2965385 N; thence westerly to 652280 E, 2958438 N; thence northerly to 650549 E, 2961126 N; to 648431 E, 2963764 N; to 646973 E, 2965847 N; to 645029 E, 2967653 N; to 643640 E, 2969319 N; to 643363 E, 2971263 N; thence easterly to 652598 E, 2971263 N; thence northeasterly following the east side of the Gulf Intercoastal Waterway to 661249 E, 3029777 N; thence easterly to 663623 E, 3029895 N; thence southerly to 663207 E, 3021943 N; to 662495 E, 3019451 N; to 661664 E, 3015712 N; to 661308 E, 3011380 N; to 660655 E, 3004971 N; to 660181 E, 2998324 N; to 660121, 2990254 N; to 660121 E, 2987108 N; and thence to point of beginning.

Unit TX–4: Lower Laguna Madre Mainland (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 658444 E, 2935883 N; thence southward to 671624 E, 2904045 N; thence westward to 666802 E, 2903931 N; thence northward to 664748 E, 2908439 N; to 663978 E, 2914002 N; to 661225 E, 2916427 N; to 659585 E, 2921419 N; to 657032 E, 2925071 N; to 656019 E, 2929378 N; to 654664 E, 2932830 N; to 654963 E, 2935227 N; to 655063 E, 2935854 N; and thence eastward to the point of beginning.

Unit TX–5: Upper Laguna Madre (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 673798 E, 3052081 N; thence southward to 672053 E, 3048473 N; to 670653 E, 3045733 N; thence westward to 669263 E, 3046403 N; thence northward to 672112 E, 3053008 N; and thence eastward to the point of beginning.

Unit TX–6: Mollie Beattie Coastal Habitat (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 678172 E, 3059908 N; thence southward to 677405 E, 3058094 N; thence eastward to 677858 E, 3057833 N; to 678119 E, 3057686 N; thence southward to 677767 E, 3056960 N; thence westward to 677053 E, 3057255 N; thence southward to 676671 E, 3056774 N; to 676301 E, 3056162 N; thence northeastward to 676242 E, 3056497 N; to 676104 E, 3056951 N; to 676006 E, 3057286 N; to 675809 E, 3057601 N; to 675477 E, 3058111 N; to 674978 E, 3058560 N; to 674404 E, 3058784 N; thence northward to 674728 E, 3060656 N; and thence eastward to the point of beginning.

Unit TX–7: Newport Pass/Corpus Christi Pass Beach (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 677048 E, 3055202 N; to 678177 E, 3057815 N; to 680170 E, 3061978 N; to 680502 E, 3062531 N; to 680746 E, 3062775 N; to 680834 E, 3062709 N; to 680701 E, 3062399 N; to 680192 E, 3061442 N; to 679468 E, 3059840 N; to 678709 E, 3058435 N; to 677601 E, 3055977 N; to 677469 E, 3055468 N; to 677225 E, 3055069 N; and thence to point of beginning.

Unit TX–8: Mustang Island Beach (Universal Transverse Mercator, Zone 14)

This unit begins at the north side of the jetties at Fish Pass at UTM 691226 E, 3078851 N; to 690776 E, 3078110 N; to 690080 E, 3077455 N; to 688505 E, 3075340 N; to 686613 E, 3072634 N; to 682546 E, 3065647 N; to 680966 E, 3062643 N; to 680881 E, 3062955 N; to 680966 E, 3063309 N; to 682482 E, 3066143 N; to 684870 E, 3070253 N; to 686819 E, 3073399 N; to 687074 E, 3073696 N; to 687315 E, 3074221 N; to 691028 E, 3079167 N; and thence to point of beginning.

Unit TX–9: Fish Pass Lagoons (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 680442 E, 65066 N; thence southwesterly to 679648 E, 64333 N; to 678517 E, 3063863 N; thence westerly to 678231 E, 3064003 N; thence northeasterly to 679550 E, 3065735 N; and thence to point of beginning.

Unit TX–10: Shamrock Island and adjacent Mustang Island Flats (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 681034 E, 3072873 N; thence southeasterly to 681886 E, 3070162 N; thence southerly to 680698 E, 3066887 N; thence westerly to 680028 E, 3067222 N; thence northerly to 679600 E, 3072256 N; and thence to point of beginning. This unit includes Shamrock Island in it's entirety.

Unit TX–11: Blind Oso (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 664615 E, 3067077 N; thence southerly to 664641 E, 3066483 N; thence southeasterly to 665028 E, 3066238 N; thence southerly to 664938 E, 3066122 N; thence northwesterly to 664073 E, 3066612 N; thence northerly to 664241 E, 3066780 N; to 664537 E, 3067142 N; and thence easterly to the point of beginning.

Unit TX–12: Adjacent to Naval Air Station-Corpus Christi (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 667351 E, 3066070 N; thence southerly to 667196 E, 3065347 N; to 667635 E, 3064702 N; thence westerly to 666848 E, 3064457 N; thence northerly to 666706 E, 3066070 N; and thence easterly to the point of beginning.

Unit TX–13: Sunset Lake (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 665015 E, 3083380 N; thence southwesterly to 661801 E, 3081237 N; thence northwesterly to 661246 E, 3081612 N; thence northeasterly to 661801 E, 3082206 N; to 662885 E, 3083083 N; to 664344 E, 3084335 N; to 665015 E, 3083380 N; and thence southeasterly to the point of beginning.

Unit TX–14: East Flats (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 688637 E, 3079701 N; thence southerly to 688650 E, 3078204 N; thence westerly to 687295, 3077868 N; to 686673 E, 3077871 N; to 686532 E, 3077816 N; to 685545 E, 3077621 N; thence northwesterly to 685426 E, 3077643 N; to 685295 E, 3077708 N; to 684519 E, 3078707 N; thence easterly to

686559 E, 3079172 N; to 687036 E, 3079314 N; to 687966 E, 3079546 N; and thence to point of beginning.

Unit TX–15: North Pass (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 695839 E, 3087963 N; thence southerly to 694626 E, 3086194 N; thence westerly to 692974 E, 3086375 N; thence northwesterly to 692626 E, 3086956 N; thence northerly to 693168 E, 3089021 N; thence northeasterly to 694562 E, 3089486 N; and thence southeasterly to the point of beginning.

Unit TX–16: San Jose Beach (Universal Transverse Mercator, Zone 14)

This unit includes the entire Gulf beach of San Jose Island and begins at UTM 697916 E, 3090741 N; to 700216 E, 3093904 N; to 703257 E, 3097615 N; to 705831 E, 3100584 N; to 710300 E, 3105408 N; to 710897 E, 3105618 N; to 710461 E, 3105021 N; to 708356 E, 3102778 N; to 706766 E, 3100906 N; to 705105 E, 3099244 N; to 703096 E, 3096921 N; to 701022 E, 3094420 N; to 699957 E, 3092903 N; to 695841 E, 3087614 N; to 695332 E, 3086917 N; to 694859 E, 3086143 N; to 693890 E, 3084377 N; to 693342 E, 3083367 N; to 692955 E, 3082544 N; to 692535 E, 3080979 N; to 692342 E, 3081012 N; to 692342 E, 3081415 N; to 692745 E, 3082625 N; to 693431 E, 3084061 N; to 694609 E, 3086175 N; to 695835 E, 3087982 N; and thence to point of beginning.

Unit TX–17: Allyn's Bight (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 698887 E, 3094781 N; thence southward to 698101 E, 3093295 N; to 697384 E, 3092596 N; thence northwesterly to 697191 E, 3092969 N; thence northeasterly to 697943 E, 3093872 N; to 698398 E, 3094869 N; and thence easterly to point of beginning.

Unit TX–18: Cedar Bayou/Vinson Slough (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 711954 E, 3107022 N; thence southwesterly to 711432 E, 3106460 N; to 711075 E, 3105869 N; to 710566 E, 3105548 N; thence westerly to 708930 E, 3106574 N; to 708748 E, 3106453 N; to 707307 E, 3106358 N; thence southwesterly to 705867 E, 3105048 N; to 704008 E, 3104106 N; to 701894 E, 3102770 N; to 700367 E, 3100768 N; thence westerly to 699745 E, 3101079 N; thence northeasterly to 700884 E, 3102885 N; to 701966 E, 3104814 N; to 702879 E, 3105294 N; to 703234 E, 3107891 N; to 704336 E, 3109535 N; to 705576 E, 3110323 N; to 707448 E, 3110722 N; thence southeasterly to 708389 E, 3108657 N; to 710986 E, 3107648 N; thence easterly to 711981 E, 3107626 N; and thence southerly to point of beginning.

Unit TX–19: Matagorda Island Beach (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 711679 E, 3106700 N; to 712072 E, 3107143 N; to 719482 E, 3114003 N; to 727781 E, 3120888 N; to 731368 E, 3123559 N; to 732625 E, 3124632 N; to 734907 E, 3126297 N; to 736453 E, 3127359 N; to 738783 E, 3128933 N; to 744276 E, 3132173 N; to 747274 E, 3133613 N; to 751925 E, 3135990 N; to 753306 E, 3137575 N; to 753885 E, 3138902 N; to 754016 E, 3139896 N; to 753970 E, 3141206 N; to 754226 E, 3142689 N; to 754891 E, 3143456 N; to 756294 E, 3142070 N; to 756267 E, 3140080 N; to 753623 E, 3136859 N; to 752353 E, 3135655 N; to 744093 E, 3131440 N; to 738712 E, 3128193 N; to 733096 E, 3124292 N; to 730729 E, 3122457 N; to 726289 E, 3119160 N; to 722048 E, 3115757 N; to 718679 E, 3112894 N; to 715853 E, 3110286 N; to 713342 E, 3107943 N; to 712318 E, 3106961 N; to 711439 E, 3106254 N; to 711350 E, 3106315 N; and thence to point of beginning.

Unit TX–20: Ayres Point. (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 719291 E, 3120010 N; thence southerly to 719459 E, 3119190 N; to 719313 E, 3118595 N; to 718584 E, 3116977 N; thence westerly to 717684 E, 3117280 N; thence northeasterly to 716516 E, 3119572 N; thence northwesterly to 717134 E, 3119920 N; and thence easterly to the point of beginning.

Unit TX–21: Panther Point to Pringle Lake. (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 747208 E, 3136566 N; to 747398 E, 3135618 N; to 746779 E, 3135217 N; to 744211 E, 3135163 N; to 742997 E, 3134973 N; to 741707 E, 3134290 N; to 741290 E, 3133531 N; to 739696 E, 3132583 N; to 738141 E, 3132317 N; to 737117 E, 3131483 N; to 735561 E, 3130951 N; to 734461 E, 3130306 N; to 733740 E, 3129282 N; to 732412 E, 3128789 N; to 730629 E, 3126513 N; to 730212 E, 3125375 N; to 728277 E, 3123819 N; to 726456 E, 3122947 N; to 725773 E, 3121808 N; to 725052 E, 3123516 N; to 726722 E, 3123705 N; to 728922 E, 3125147 N; to 730515 E, 3127613 N; to 732943 E, 3130231 N; to 733816 E, 3131445 N; to 735334 E, 3132507 N; to 737382 E, 3133304 N; to 739658 E, 3133304 N; to 740417 E, 3133873 N; to 740683 E, 3134593 N; to 742580 E, 3135921 N; to 744856 E, 3136187 N; and thence to point of beginning.

Unit TX–22: Decros Point. (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 758150 E, 3144162 N; to 757876 E, 3143728 N; to 757587 E, 3143470 N; to 757555 E, 3143229 N; to 756880 E, 3142747 N; to 755947 E, 3142843 N; to 755272 E, 3143406 N; to 760175 E, 3148148 N; to 761091 E, 3148261 N; to 761332 E, 3147939 N; to 757729 E, 3144573 N; to 757882 E, 3144345 N; to 760539 E, 3146652 N; to 761188 E, 3147069 N; to 761332 E, 3147157 N; to 761558 E, 3147193 N; to 761528 E, 3147054 N; to 760709 E, 3146529 N; to 759310 E, 3145381 N; and thence to point of beginning.

Unit TX–23: West Matagorda Peninsula Beach. (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 762390 E, 3147270 N; to 763800 E, 3148958 N; to 767399 E, 3151653 N; to 771970 E, 3154759 N; to 774347 E, 3156019 N; to 775973 E, 3156956 N; to 782779 E, 3160686 N; to 786739 E, 3162808 N; to 788931 E, 3163921 N; to 790221 E, 3164575 N; to 792095 E, 3165530 N; to 793103 E, 3166025 N; to 793491 E, 3166202 N; to 794030 E, 3166130 N; to 794570 E, 3166591 N; to 794839 E, 3166662 N; to 795024 E, 3166870 N; to 795140 E, 3167170 N; to 795278 E, 3167262 N; to 795324 E, 3166939 N; to 795105 E, 3166546 N; to 794712 E, 3166407 N; to 794388 E, 3166084 N; to 793972 E, 3165899 N; to 793672 E, 3166014 N; to 793509 E, 3165919 N; to 792802 E, 3165636 N; to 786968 E, 3162578 N; to 783221 E, 3160616 N; to 778377 E, 3157946 N; to 777069 E, 3157151 N; to 775443 E, 3156232 N; to 771403 E, 3154089 N; to 770779 E, 3153557 N; to 769023 E, 3152424 N; to 767729 E, 3151408 N; to 766111 E, 3150321 N; to 763661 E, 3148426 N; to 763222 E, 3147964 N; to 762598 E, 3147062 N; and thence to point of beginning.

Unit TX–24: West Matagorda Bay/Western Peninsula Flats. (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 774345 E, 3156133 N; thence southwesterly to 772428 E, 3155203 N; to 771876 E, 3154746 N; to 770867 E, 3154257 N; to 768249 E, 3152806 N; to 765489 E, 3151418 N; thence northwesterly to 765110 E, 3152049 N; thence northeasterly to 771105 E, 3155912 N; to 771973 E, 3156571 N; to 773682 E, 3157269 N; and thence southeasterly to the point of beginning.

Unit TX–25: West Matagorda Bay/Eastern Peninsula Flats. (Universal Transverse Mercator, Zone 14)

This unit begins at UTM 787656 E, 3163708 N; thence southwesterly to 786095 E, 3163152 N; to 783571 E, 3161938 N; thence northeasterly to 783256 E, 3162774 N; thence northwesterly to 784191 E, 3163414 N; to 787165 E, 3164493 N; thence southeasterly to 787719 E, 3164272 N; and thence southerly to the point of beginning.

Unit TX–26: Colorado River Diversion Delta. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 208237 E, 3173005 N; thence southerly to 208268 E, 3172820 N; to 208268 E, 3172279 N; to 207882 E, 3171630 N; to 207882 E, 3171429 N; to 207898 E, 3170750 N; to 207280 E, 3170039 N; thence westerly to 206677 E, 3169931 N; thence northwesterly to 206044 E, 3170672 N; to 205766 E, 3171059 N; thence northeasterly to 206476 E, 3171677 N; thence northerly to 206708 E, 3172712 N; thence easterly to 207002 E, 3172882 N; to 207202 E, 3172866 N; to 207836 E, 3172851 N; and thence northeasterly to point of beginning.

Unit TX–27: East Matagorda Bay/Matagorda Peninsula Beach West. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 226862 E, 3175139 N; to 227500 E, 3175402 N; to 227677 E, 3175329 N; to 227750 E, 3175152 N; to 227603 E, 3174924 N; to 225118 E, 3173669 N; to 222899 E, 3172573 N; to 219782 E, 3171187 N; to 218231 E, 3170379 N; to 214364 E, 3168832 N; to 213023 E, 3168216 N; to 210968 E, 3167468 N; to 208653 E, 3166425 N; to 208462 E, 3166425 N; to 208326 E, 3166560 N; to 208381 E, 3166833 N; to 208702 E, 3167021 N; to 210773 E, 3167929 N; to 212835 E, 3168679 N; to 214169 E, 3169293 N; to 218035 E, 3170840 N; to 219568 E, 3171639 N; to 222686 E, 3173025 N; and thence to point of beginning.

Unit TX–28: East Matagorda Bay/Matagorda Peninsula Beach East. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 236392 E, 3179828 N; to 235729 E, 3179498 N; to 235553 E, 3179571 N; to 235479 E, 3179748 N; to 235609 E, 3179967 N; to 239774 E, 3182423 N; to 240581 E, 3182748 N; to 244007 E, 3184674 N; to 244214 E, 3184681 N; to 244350 E, 3184546 N; to 244350 E, 3184354 N; to 244230 E, 3184226 N; to 240835 E, 3182317 N; to 240003 E, 3181979 N; to 238877 E, 3181350 N; and thence to point of beginning.

Unit TX–29: Brown Cedar Cut. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 238043 E, 3181533 N; thence southwesterly to 236358 E, 3180400 N; to 236358 E, 3180400 N; to 235673 E, 3180032 N; to 235410 E, 3180611 N; to 236068 E, 3181691 N; to 236331 E, 3182086 N; to 237438 E, 3181954 N; to 237912 E, 3181717 N; and thence to point of beginning.

Unit TX–30: Northeast Corner East Matagorda Bay. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 241179 E, 3183462 N; thence southerly to 241147 E, 3182929 N; thence southwesterly to 240585 E, 3182506 N; to 239944 E, 3182291 N; thence northwesterly to 239567 E, 3182891 N; to 239631 E, 3183361 N; to 239665 E, 3183610 N; to 239225 E, 3183483 N; to 239140 E, 3183483 N; to 239145 E, 3183678 N; to 239599 E, 3184486 N; to 240775 E, 3184232 N; and thence to point of beginning.

Unit TX–31: San Bernard NWR Beach. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 251823 E, 3188411 N; to 251424 E, 3188346 N; to 251289 E, 3188482 N; to 251289 E, 3188673 N; to 251424 E, 3188808 N; to 252280 E, 3189177 N; to 254098 E, 3190183 N; to 255035 E, 3190831 N; to 258881 E, 3193084 N; to 260170 E, 3193947 N; to 260998 E, 3194386 N; to 261528 E, 3194537 N; to 262024 E, 3194968 N; to 262215 E, 3194968 N; to 262351 E, 3194833 N; to 262304 E, 3194568 N; to 261791 E, 3194109 N; to 261186 E, 3193922 N; to 260437 E, 3193524 N; to 259954 E, 3193158 N; to 257191 E, 3191562 N; to 254324 E, 3189735 N; and thence to point of beginning.

Unit TX–32: Gulf Beach Between Brazos and San Bernard Rivers. (Universal Transverse Mercator, Zone 15)

This units begins at UTM 262548 E, 3194350 N; to 262128 E, 3194624 N; to 262128 E, 3194816 N; to 262264 E, 3194951 N; to 262601 E, 3194863 N; to 264453 E, 3194851 N; to 266249 E, 3195136 N; to 267426 E, 3195461 N; to 267698 E, 3196681 N; to 267929 E, 3196835 N; to 268160 E, 3196681 N; to 268048 E, 3195725 N; to 267920 E, 3195309 N; to 267682 E, 3195019 N; to 266342 E, 3194644 N; to 264500 E, 3194353 N; and thence to point of beginning.

Unit TX–33: Bryan Beach and Adjacent Beach. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 268624 E, 3196451 N; to 268185 E, 3196267 N; to 268009 E, 3196340 N; to 267935 E, 3196517 N; to 268009 E, 3196693 N; to 268293 E, 3196829 N; to 269534 E, 3197956 N; to 271225 E, 3199359 N; to 271664 E, 3199731 N; to 272205 E, 3200086 N; to 272374 E, 3200255 N; to 272509 E, 3200153 N; to 272577 E, 3200018 N; to 270278 E, 3198086 N; to 269289 E, 3197181 N; and thence to point of beginning.

Unit TX–34: San Luis Pass. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 293994 E, 3219228 N; to 293207 E, 3219413 N; to 292404 E, 3219814 N; to 292002 E, 3220484 N; to 292169 E, 3221053 N; to 292960 E, 3221348 N; to 294362 E, 3220852 N; to 294781 E, 3220718 N; to 294647 E, 3220367 N; to 294865 E, 3220283 N; to 294965 E, 3220166 N; to 297057 E, 3221773 N; to 298916 E, 3223246 N; to 299066 E, 3223012 N; to 295250 E, 3219898 N; to 294613 E, 3219396 N; and thence to point of beginning.

Unit TX–35: Big Reef. (Universal Transverse Mercator, Zone 15)

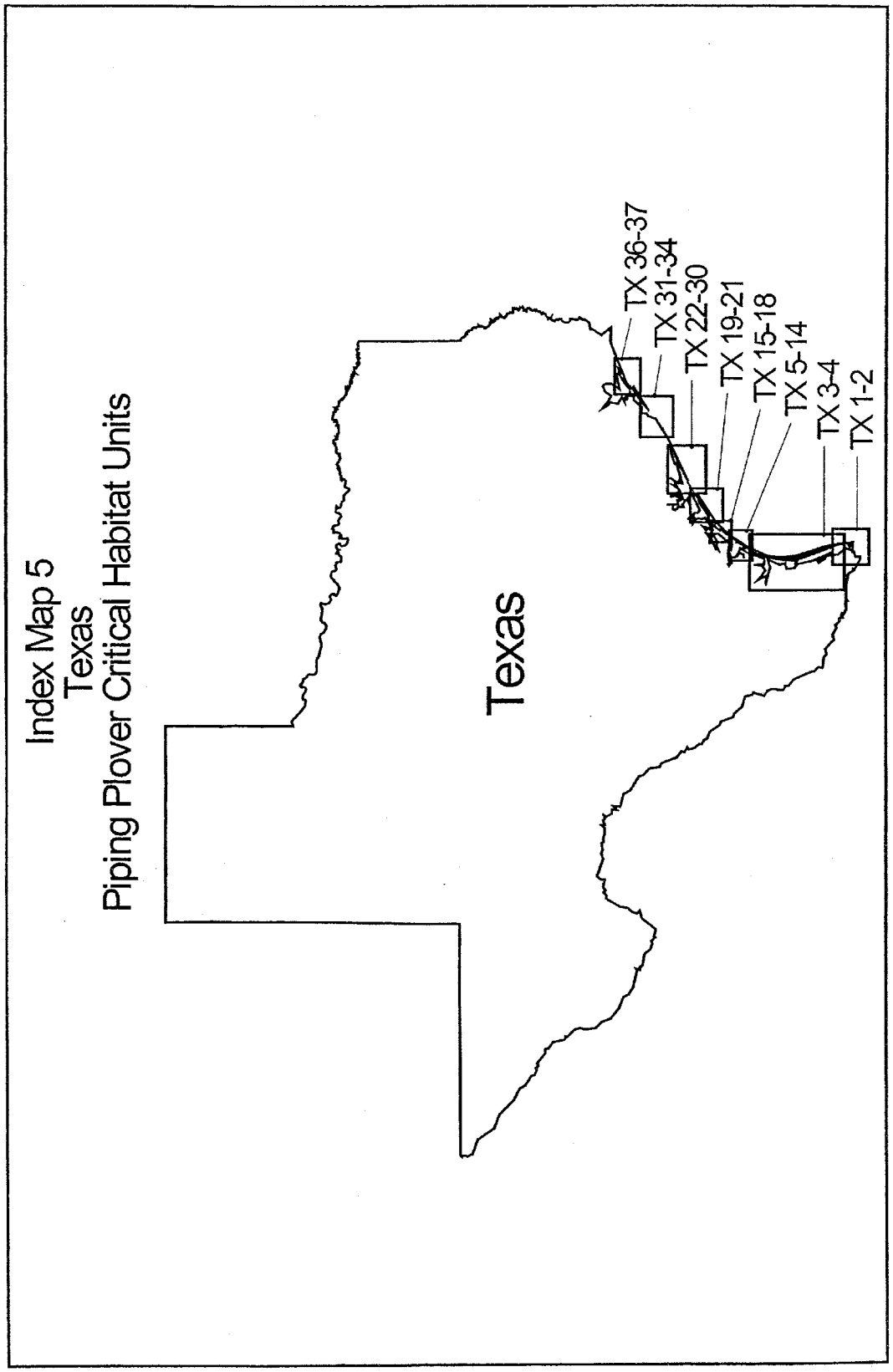
This unit begins at UTM 330764 E, 3246116 N; to 330706 E, 3246117 N; to 330669 E, 3246029 N; to 330559 E, 3246024 N; to 330489 E, 3246033 N; to 330393 E, 3246059 N; to 330279 E, 3246050 N; to 330043 E, 3246068 N; to 329895 E, 3246146 N; to 330341 E, 3246304 N; to 330472 E, 3246348 N; to 330542 E, 3246365 N; to 330608 E, 3246377 N; to 330658 E, 3246407 N; to 330710 E, 3246416 N; to 330752 E, 3246415 N; to 330874 E, 3246434 N; to 330954 E, 3246436 N; to 331062 E, 3246433 N; to 331164 E, 3246442 N; to 331586 E, 3246563 N; to 331629 E, 3246569 N; to 331661 E, 3246568 N; to 331717 E, 3246554 N; to 331734 E, 3246545 N; to 331783 E, 3246513 N; to 331803 E, 3246513 N; to 331843 E, 3246524 N; to 331878 E, 3246529 N; to 332046 E, 3246533 N; to 332103 E, 3246519 N; to 332130 E, 3246502 N; to 332152 E, 3246483 N; to 332181 E, 3246432 N; to 332232 E, 3246391 N; to 332243 E, 3246306 N; to 332315 E, 3246165 N; to 332426 E, 3246070 N; to 332516 E, 3245965 N; to 332659 E, 3245879 N; to 332806 E, 3245776 N; to 332972 E, 3245701 N; to 332815 E, 3245718 N; to 332649 E, 3245753 N; to 332378 E, 3245788 N; to 332212 E, 3245797 N; to 332150 E, 3245718 N; to 332058 E, 3245667 N; to 331993 E, 3245753 N; to 331958 E, 3245910 N; to 331967 E, 3246068 N; to 331923 E, 3246181 N; to 331862 E, 3246208 N; to 331861 E, 3246218 N; to 331818 E, 3246213 N; to 331730 E, 3246215 N; to 331673 E, 3246229 N; to 331656 E, 3246239 N; to 331621 E, 3246262 N; to 331233 E, 3246151 N; to 331206 E, 3246146 N; to 331079 E, 3246134 N; to 330955 E, 3246156 N; to 330839 E, 3246126 N; to 330784 E, 3246117 N; and thence to point of beginning.

Unit TX–36: Bolivar Flats. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 333801 E, 3252955 N; thence southerly to 333711 E, 3252850 N; to 333454 E, 3252525 N; to 333344 E, 3252248 N; to 333195 E, 3251778 N; to 333158 E, 3251390 N; to 333158 E, 3251094 N; to 333026 E, 3250221 N; to 333140 E, 3249540 N; to 333251 E, 3249188 N to 333251 E, 3248634 N; thence southerly to the jetties at 333300 E, 3248400 N; thence westerly along the north edge of the north jetties to 330155 E, 3250145 N; thence northeasterly parallel to the shoreline of the island to 333047 E, 3252610 N; to 333510 E, 3253203 N; and thence to point of beginning.

Unit TX–37: Rollover Pass. (Universal Transverse Mercator, Zone 15)

This unit begins at UTM 355135 E, 3267188 N; thence southeasterly to 355227 E, 3267040 N; to 355671 E, 3266781 N; to 355819 E, 3266522 N; to 355764 E, 3266152 N; to 355523 E, 3265689 N; to 355135 E, 3265449 N; to 354654, 3265227 N; to 354358 E, 3265023 N; to 353618 E, 3265708 N; to 353063 E, 3266281 N; and thence northeasterly to the point of beginning.


Index Map 5
Texas
Piping Plover Critical Habitat Units
Texas
TX 36-37
TX 31-34
TX 22-30
TX 19-21
TX 15-18
TX 5-14
TX 3-4
TX 1-2

1. The primary constituent elements essential for the conservation of wintering piping plovers are those habitat components that support foraging, roosting, and sheltering and the physical features necessary for maintaining the natural processes that support these habitat components. The primary constituent elements include intertidal beaches and flats (between annual low tide and annual high tide) and associated dune systems and flats above annual high tide. Important components of intertidal flats include sand and/or mud flats with no or very sparse emergent vegetation. In some cases, these flats may be covered or partially covered by a mat of blue-green algae. Adjacent non-or sparsely vegetated sand, mud, or algal flats above high tide are also important, especially for roosting piping plovers, and are primary constituent elements of piping plover wintering habitat. Such sites may have debris, detritus (decaying organic matter), or micro-topographic relief (less than 50 cm above substrate surface) offering refuge from high winds and cold weather. Important components of the beach/dune ecosystem include surf-cast algae, sparsely vegetated backbeach (beach area above mean high tide seaward of the permanent dune line, or in cases where no dunes exist, seaward of a delineating feature such as a vegetation line, structure, or road), spits, and washover areas. Washover areas are broad, unvegetated zones, with little or no topographic relief, that are formed and maintained by the action of hurricanes, storm surge, or other extreme wave action.

2. Critical habitat does not include existing developed sites consisting of buildings, marinas, paved areas, boat ramps, and similar structures.

* * * * *

Dated: June 28, 2000.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–16816 Filed 6–30–00; 9:00 am]

BILLING CODE 4310–55–C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG14

Endangered and Threatened Wildlife and Plants; Proposed Designation of Critical Habitat for the Great Lakes Breeding Population of the Piping Plover

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose to designate 37 units along the Great Lakes shoreline of Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, and New York as critical habitat under the Endangered Species Act of 1973, as amended, for the Great Lakes breeding population of the piping plover (*Charadrius melodus*). We propose to designate critical habitat on fewer than 305 km (189 mi) in 27 counties within these States. Within these areas, only the specific locations that have or could develop the physical and biological features required by piping plovers (primary constituent elements) would be considered critical habitat.

The primary constituent elements for the piping plover are those habitat components that are essential for foraging, sheltering, reproduction, rearing of young, intra-specific communication, roosting, nesting, and dispersal.

This proposed rule, if made final, would result in additional review requirements under section 7 of the Act. Federal agencies may not fund, authorize, or carry out an action that would destroy or adversely modify critical habitat. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicit data and comments from the public on all aspects of this proposal, including potential economic and other impacts of the designation.

DATES: *Comments:* We will consider comments received by September 5, 2000.

Public Hearings: We have scheduled seven public hearings for this proposal. See Hearings section for hearing dates and addresses.

We will hold public informational open houses at the same locations prior to each public hearing. The informational open houses will start at 6 pm. The public hearings will start at 7 pm and end at 9 pm.

ADDRESSES: Send written comments and other materials concerning this proposal to: Piping Plover Comments, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111 or by e-mail to PIPINGPLOVERCOMMENT@FWS.GOV or by facsimile to 612–713–5292.

The complete file for this proposed rule, including comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the above address and at the U.S. Fish and Wildlife Service, East Lansing Field Office, 2651 Coolidge Road, Suite 101, East Lansing, MI 48823.

FOR FURTHER INFORMATION CONTACT: Laura J. Ragan; (612) 713–5350.

SUPPLEMENTARY INFORMATION:

Background

The piping plover (*Charadrius melodus*), named for its melodic mating call, is a small, pale-colored North American shorebird. It weighs 43–63 grams (1.5–2.5 ounces) and is 17–18 centimeters (cm) (6–7 inches (in.)) long (Haig 1992). Its light, sand-colored plumage blends in well with its primary sandy beach habitat. Plumage and leg color help distinguish this bird from other plover species. During the breeding season, the legs are bright orange, and the short, stout bill is orange with a black tip. There are two single dark bands, one around the neck and one across the forehead between the eyes. The female's neck band is often incomplete and is usually thinner than the male's (Haig 1992). In winter, the bill turns black, the legs fade to pale orange, and the black plumage band on the head and neck is lost. Chicks have speckled gray, buff, and brown down, black beaks, pale orange legs, and a white collar around the neck. Juveniles resemble wintering adults and obtain their adult plumage the spring after they fledge (Service 1994).

The breeding range of the piping plover extends throughout the northern Great Plains, the Great Lakes, and the Atlantic Coast in the United States and Canada. Based on this distribution, three breeding populations of piping plovers have been described: the Northern Great Plains population, the Great Lakes population, and the Atlantic Coast population.

The northern Great Plains breeding range includes southern Alberta, northern Saskatchewan, and southern Manitoba; south to eastern Montana, the Dakotas, southeastern Colorado, Iowa, Minnesota, and Nebraska; and east to Lake of the Woods in north-central Minnesota. The majority of the United States pairs are in the Dakotas, Nebraska, and Montana (Service 1994). Occasionally, Great Plains birds nest in Oklahoma and Kansas. On the Atlantic coast, piping plovers breed from Newfoundland, southeastern Quebec, and New Brunswick to North Carolina, with 68 percent of all the nesting pairs breeding in Massachusetts, New York, New Jersey, and Virginia (Service 1999).

In the Great Lakes watershed, piping plovers formerly nested throughout much of the region in the north-central United States and south-central Canada, but are currently limited to northern Michigan and one site in northern Wisconsin. Piping plovers nest on shoreline and island sandy beaches with

sparse vegetation and the presence of small stones (greater than 1 cm (0.4 in.)) called cobble. Their nests are concealed by the cobble and are, therefore, very difficult to see. Piping plovers spend approximately 3–4 months a year on the breeding grounds. Nesting in the Great Lakes region begins in early to mid-May. Plovers lay 3–4 eggs in a small depression they scrape in the sand among the cobblestones, and both sexes incubate the eggs for about 28 days. Young plovers can walk almost as soon as they hatch, but remain vulnerable to predation and disturbance for another 21–30 days until they are able to fly.

Nesting piping plovers are highly susceptible to disturbance by people and pets on the beach. Human disturbance disrupts adult birds' care of their nests and young and may inhibit incubation of eggs. Furthermore, adults may leave the nest to lure away an intruder, leaving the eggs or chicks vulnerable to predators and exposure to weather. Also, disturbance may lead to the abandonment of nests. As a result of this disturbance and other natural and human-caused factors such as high water levels, flooding, eroding beaches, and beach-front commercial and recreational development, reproduction of Great Lakes piping plovers has been severely affected, resulting in perilously low numbers of nesting plovers (Service 1994).

Piping plovers are migratory birds. They leave the breeding grounds between late July and early September and head for their wintering grounds, where they spend more than 8 months of the year. Although the breeding ranges of the three piping plover populations are separate, their wintering ranges overlap and extend along the Atlantic and Gulf Coasts from southern North Carolina to Mexico and into the West Indies and Bahamas. Resightings of color-banded birds from the Great Lakes breeding population have occurred along the coastlines of North and South Carolina, Georgia, Florida, Louisiana, and Texas.

Historically, the Great Lakes breeding population of the piping plover nested on beaches in Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York, and Wisconsin, and in Ontario, Canada. Although piping plovers were never abundant, prior to European settlement, populations in the Great Lakes were estimated at 492–682 breeding pairs (Russell 1983).

In recent decades, piping plover populations have declined drastically, especially in the Great Lakes. In the early 1900s, uncontrolled hunting throughout their range drove them nearly to extinction. Protective legislation helped them to recover by 1925, and populations reached a 20th Century high in the 1930s (Service 1994). These numbers soon plummeted, though, as recreational and commercial use of beaches increased. Piping plover numbers continued to decline in the 1940s and 1950s as shoreline development expanded, resulting in the loss of their breeding habitat.

In 1973, the piping plover was placed on the National Audubon Society's Blue List of threatened species. By that time, piping plovers had been extirpated from shoreline beaches in Illinois, Indiana, Ohio, New York, Pennsylvania, and Ontario, and only a few birds were continuing to nest in Wisconsin (Russell, 1983). By 1979, the Great Lakes breeding population had decreased to 38 pairs. At the time the species was listed under the Endangered Species Act in 1985, the Great Lakes breeding population numbered only 17 breeding pairs, and the breeding areas had been reduced from sites in eight States to northern Michigan.

In recent years, the Great Lakes breeding population has gradually increased and expanded south and west within the Great Lakes watershed. In 1999, 32 pairs of piping plovers nested on the Great Lakes shoreline within the United States, but only one of these pairs was outside of northern Michigan (Stucker and Cuthbert, unpublished data). This population increase is being aided by intense State, tribal, Federal, and private conservation actions directed at the protection of the piping plover. Activities such as habitat surveys, beach restoration, public education, habitat protection and enhancement, and the protection of nests from predators and disturbance through the use of predator exclosure fencing have all contributed to the improving status of the Great Lakes piping plover. This proposal applies only to the breeding range of the Great Lakes population in the United States.

Previous Federal Actions

On December 30, 1982, we published a notice of review in the **Federal Register** (47 FR 58454) that identified vertebrate animal taxa being considered for addition to the List of Threatened and Endangered Wildlife. The notice included the piping plover as a Category 2 Candidate species, indicating that we believed the species might warrant listing as threatened or endangered, but that we had insufficient data to support a proposal to list at that time. Subsequent review of additional data indicated that the piping plover warranted listing, and in November, 1984, we published a proposal in the **Federal Register** (49 FR 44712) to list the piping plover as endangered in the Great Lakes watershed and as threatened along the Atlantic Coast, the Northern Great Plains, and elsewhere in their range. The proposed listing was based on the decline of the species and the existing threats, including habitat destruction, disturbance by humans and pets, high levels of predation, and contaminants. On December 11, 1985, we published the final rule (50 FR 50726), listing the piping plover as endangered in the Great Lakes watershed (Illinois, Indiana, Michigan, northeastern Minnesota, New York, Ohio, Pennsylvania, Wisconsin, and Ontario) and as threatened along the Atlantic coast (Quebec, Newfoundland, Maritime Provinces, and States from Maine to Florida), in the Northern Great Plains region (Iowa, northwestern Minnesota, Montana, Nebraska, North Dakota, South Dakota, Alberta, Manitoba, and Saskatchewan), and on migratory routes and on their wintering grounds. All piping plovers on migratory routes outside of the Great Lakes watershed or on their wintering grounds are considered threatened. The Service did not designate critical habitat for the species at that time.

In 1986, we appointed two recovery teams to develop recovery plans for the Atlantic Coast and Great Lakes/Northern Great Plains breeding populations. The recovery plans that resulted from their efforts were published in 1988 (Service 1988a, Service 1988b). In 1994, we began to revise the plan for the Great Lakes/Northern Great Plains populations by developing and distributing for public comment a draft that included updated information on the species. More recently, we decided that the recovery of these two inland populations would benefit from separate recovery plans that would direct separate recovery programs. Separate recovery plans for the Great Lakes and Northern Great Plains populations are presently under development.

The final listing rule for the piping plover indicated that designation of critical habitat was not determinable. Thus, designation was deferred. No further action was subsequently taken to designate critical habitat for piping plovers. On December 4, 1996, Defenders of Wildlife (Defenders) filed a suit (Defenders of Wildlife and *Piping Plover* v. *Babbitt*, Case No. 96CV02965) against the Department of the Interior and the Service over the lack of designation of critical habitat for the Great Lakes breeding population of the piping plover. Defenders filed a similar suit (Defenders of Wildlife and Piping

Plover v. *Babbitt*, Case No. 97CV000777) for the Northern Great Plains piping plover population in 1997. During November and December 1999 and January 2000, we began negotiating a schedule for piping plover critical habitat decisions with Defenders. On February 7, 2000, before the settlement negotiations were concluded, the United States District Court for the District of Columbia issued an order directing us to publish a proposed critical habitat designation for nesting and wintering areas of the Great Lakes breeding population of the piping plover by June 30, 2000, and for nesting and wintering areas of the Northern Great Plains piping plover by May 31, 2001. A subsequent order, after requesting the court to reconsider its original order relating to final critical habitat designation, directs us to finalize the critical habitat designations for the Great Lakes population by April 30, 2001, and for the Northern Great Plains population by March 15, 2002. For biological and practical reasons, we chose to propose critical habitat for the Great Lakes breeding birds and for all wintering birds in two separate rules to be published concurrently.

Critical Habitat

Critical habitat is defined in section 3 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 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 an endangered or threatened species to the point at which listing under the Act is no longer necessary. Thus, critical habitat areas should provide sufficient habitat to support the species at the population level and geographic distribution that is necessary for recovery. Proposed critical habitat for the Great Lakes breeding population of the piping plover includes areas that currently support the species, and also areas that are not currently used by the species but that contain habitat essential for the recovery of the species.

Section 4(b)(2) of the Act requires that we base critical habitat proposals upon the best scientific and commercial data available, after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude areas from critical habitat designation when we determine that benefits of excluding those areas outweigh the benefits of including them, providing the exclusion would not result in the extinction of the species.

Designation of critical habitat helps focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species. Designation of critical habitat alerts the public, as well as land-managing agencies, to the importance of these areas.

Section 7 of the Act requires Federal agencies to ensure, in consultation with us, that any actions they authorize, fund, or carry out do not adversely modify or destroy critical habitat. Section 7 also requires Federal agencies to confer with us on actions that are likely to result in the adverse modification or destruction of proposed critical habitat. Designation of critical habitat affects actions on private lands only when the actions are authorized, funded, or carried out by a Federal agency.

Designating critical habitat does not, in itself, lead to recovery of a listed species. Designation does not establish a preserve area where human activities are prohibited, create a management plan, establish numerical population goals, or prescribe specific management practices (inside or outside of critical habitat). Specific management recommendations for areas designated as critical habitat are most appropriately addressed in the Recovery Plan, site-specific management plans, through section 7 consultation on Federal activities, and section 10 incidental take permits.

All of the proposed critical habitat areas are considered essential to the conservation of the Great Lakes breeding population of the piping plover as described in the approved 1988 Recovery Plan for the Great Lakes and Northern Great Plains Piping Plover (Plan) and the 1994 Recovery Plan for the Great Lakes Piping Plover. The proposed designation encompasses those areas considered necessary to achieve the recovery goals for this population, and includes Great Lakes shoreline and island beaches that currently support piping plovers, that historically supported and are still capable of supporting piping plovers, and areas that have the potential to support piping plovers in the future. Not all of the primary constituent elements may be present in all of the areas proposed for designation, but given the dynamic character of shoreline processes, areas currently lacking some of the constituent elements could develop them in the future. Over a period of a few years, these sites may be affected by changes in local water levels, weather, and other external forces, which may in turn change the suitability of such sites for piping plovers.

We considered, and are proposing, a portion of the Bad River Indian Reservation because we believe some shoreline areas on Tribal lands may be essential to the conservation of Great Lakes piping plover. However, the short amount of time provided under the schedule dictated by the court to propose critical habitat prevented us from doing more than initiating coordination with the Bad River Band of the Lake Superior Tribe of the Chippewa Indians. Subsequent to this proposal, we will continue coordinating with the Bad River Band before making a final determination as to whether any Tribal lands should be included as critical habitat for the Great Lakes piping plover. We will consider whether these Tribal lands require special management considerations or protection; we may also exclude some or all of these lands from critical habitat upon a determination that the benefits of excluding them outweigh the benefits of designating these areas as critical habitat, as provided under section 4(b)(2) of the Act. This consultation will take place under the auspices of the Secretarial Order 3206 and the Presidential Memorandum of April 29, 1994, which require us to coordinate with federally recognized Tribes on a Government-to-Government basis.

Methods

In determining areas that are essential to conserve the Great Lakes breeding population of the piping plover, we used the best scientific and commercial data available. We solicited information from knowledgeable biologists and reviewed the available information pertaining to habitat requirements of the species. In an effort to map areas essential to the conservation of the species, we used data of known piping plover breeding locations, records of historical nesting sites, International Census data, and those areas that were identified in the 1988 recovery plan and 1999 draft recovery plan as essential for the recovery of the species. We have chosen the 37 critical habitat units in order to protect adequate habitat to meet the recovery criteria, contained in the Plan and draft Plan, of 100 breeding pairs in Michigan and 50 breeding pairs

in the other Great Lakes States combined.

We did not map critical habitat in sufficient detail to exclude all currently developed sites consisting of buildings, marinas, paved areas, boat ramps, and similar structures. These areas do not contain primary constituent elements essential for piping plover conservation, and are not critical habitat even though they are within the mapped boundaries. Designating specific locations for critical habitat for the piping plovers is difficult because the beach areas they use are constantly changing due to storm surges, flood events, and other natural geo-physical alterations of beaches and shorelines. Areas lakeward of the beach and covered by water (*e.g.,* lakes) will not contain one or more of the primary constituent elements, and are not critical habitat. Because of the dynamics of beach areas, however, areas now covered by water may in the future become land, and will then under this designation become critical habitat if they fall within the mapped boundaries.

The critical habitat units are larger complexes of habitat that contain areas that currently have the primary constituent elements necessary for piping plovers and other areas that may develop these primary constituent elements. During section 7 consultation, we will determine whether an action may affect the primary constituent elements or the ability of the areas to develop them.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, we are required to base critical habitat determinations on the best scientific and commercial data available and to consider those physical and biological features that are essential to the conservation of the species and that may require special management considerations and protection. Such requirements include but are not limited to (1) space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, and rearing of offspring; and (5) habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

The areas we are proposing for designation as critical habitat provide some or all of those habitat components essential for the biological needs of the piping plover or have the capacity to develop these habitat components. These components are also called primary constituent elements.

The primary constituent elements for the Great Lakes breeding population of the piping plover are those habitat components that are essential for the biological needs of foraging, sheltering, reproduction, rearing of young, intra-specific communication, roosting, nesting, and dispersal. Proposed critical habitat for the Great Lakes breeding population of piping plovers includes sites that: (1) Are currently or recently (at least once during the past 5 years) used for breeding, (2) were documented to have been occupied historically and still have most or all of the primary constituent elements, or (3) are not documented to have been occupied historically but are deemed potential breeding habitat because their characteristics are suitable for breeding by piping plovers.

The primary constituent elements required to sustain the Great Lakes breeding population of the piping plover are found on Great Lakes islands and mainland shorelines that support, or have the potential to support, open, sparsely vegetated sandy habitats—sand spits or sand beaches associated with wide, unforested systems of dunes and inter-dune wetlands. In order for habitat to be physically and biologically suitable for piping plovers, it must have a total shoreline length of at least 0.2 km (0.12 mi) of gently sloping, sparsely vegetated (less than 50 percent herbaceous and low woody cover) sand beach with a total beach area of at least 2 hectares (ha) (5 acres (ac)) and a low level of disturbance from human activities and from domestic animals. These appropriately sized sites must also have areas of at least 50–100 meters (m) (165–330 feet (ft)) in length where (1) the beach width is more than 7 m (23 ft), (2) there is protective cover for nests and chicks, and (3) the distance to the treeline (from the normal high water line to where the forest begins) is more than 50 m (165 ft). Beach width is defined as the distance from the normal high water line to the foredune (a low barrier dune ridge immediately inland from the beach) edge, or to the sand/vegetation boundary in areas where the foredune is absent. The beach width may be narrower than 7 m (23 ft) if appropriate sand and cobble areas at least 7 m (23 ft) exist between the dune and the treeline. Protective cover for nests and chicks consists of small patches of herbaceous vegetation, cobble (stones larger than 1 cm (0.39 inches (in)) diameter), gravel (stones smaller than 1 cm (0.39 in) diameter), or debris such as driftwood, wrack, root masses, or dead shrubs.

Dominant plants within these areas include marram grass (*Ammophila brevigulata*), beach wormwood (*Artemesia campestris*), silverweed (*Potentilla anserina*), Lake Huron tansy (*Tanacetum huronense*), pitcher's thistle (*Cirsium pitcheri*), beach pea (*Lathyrus maritimus* var. *glaber*), sea rocket (*Cakile edentula*), sedges (*Carex* spp.), goldenrods (*Solidago* spp.), sand cherry (*Prunus pumila*), bearberry (*Actostaphylus uva-ursi*), creeping juniper (*Juniper horizontalis*), cottonwood (*Populus deltoides*), and willow (*Salix* spp.).

Proposed Critical Habitat Designation

At this time, the proposed critical habitat areas contained within the critical habitat units discussed below constitute our best evaluation of areas needed for the conservation of the Great Lakes breeding population of the piping plover. Very little suitable piping plover habitat remains in the Great Lakes region. Therefore, areas that were historically occupied by piping plover and that still contain suitable habitat or potentially could contain suitable habitat, as well as areas that are not known to have been historically occupied but have potential piping plover habitat, are necessary for the recovery of the species. Proposed critical habitat may be revised should new information become available prior to the final rule. Critical habitat subsequently may be revised if new information becomes available after the final rule. Any subsequent areas of critical habitat will be designated only after a formal proposal and opportunity for public comment.

The approximate length of proposed critical habitat shoreline by land ownership is shown in Table 1. Lands proposed as critical habitat are under private, Federal, State, municipal, and tribal ownership. Estimates reflect the total area within critical habitat unit boundaries, without regard to the presence of primary constituent elements. The area actually proposed for designation by this proposal is therefore less than that indicated in Table 1.

TABLE 1.—KILOMETERS OF GREAT LAKES SHORELINE PROPOSED AS CRITICAL HABITAT UNITS FOR THE PIPING PLOVER IN EACH GREAT LAKES STATE SUMMARIZED BY FEDERAL, STATE, MUNICIPAL, PRIVATE AND OTHER OWNERSHIP

	Ownership					
	km shoreline (percentage within each State)					
	Federal	State	Municipal	Private	Other	Total
Michigan	36.6 (16.9)	103.6 (47.9)	6.1 (2.8)	64 (29.6)	6 TNC (2.8)	216.3
Minnesota	0	1.4 (50.0)	1.0 (35.7)	0.4 (14.3)	0	2.8
Wisconsin	11.0 (33.8)	11.0 (33.8)	5.5 (16.9)	0	5 tribal (15.4)	32.5
Illinois	0	4.7 (46.3)	1.25 (12.3)	4.2 (41.3)	0	10.15
Indiana	5.5 (52.4)	5.0 (47.6)	0	0	0	10.5
Ohio	0	2.0 (50)	0	2.0 (50)	0	4.0
Pennsylvania	0.4 (26.7)	1.1 (73.3)	0	0	0	1.5
New York	0	12.4 (45.3)	0	14.6 (53.3)	0.4 TNC (1.5)	27.4
Total (percentage of)	53.5 (17.5)	141.2 (46.3)	13.85 (4.5)	85.2 (27.9)	11.4 (3.7)	305.1

There is no numerical estimate of the extent of the piping plover's historical range in the Great Lakes, but Russell (1983) indicates that several areas where piping plovers once nested are no longer suitable. Much historically occupied habitat has been destroyed by activities such as marina development, construction of seawalls, and the increased use of recreation areas. Additionally, lake level fluctuations and winter storms periodically alter the quantity and quality of available breeding habitat, making some areas no longer suitable for nesting while potentially creating new areas of suitable habitat. Because of the loss of historical habitat and the dynamic nature of the Great Lakes shoreline, some areas for which there are no historical records of piping plovers but which are potential nesting habitat are being proposed for designation. Without these potential habitat areas, there would not be enough nesting habitat to meet the recovery criteria outlined in the Revised Recovery Plan for Piping Plovers (1994).

Lands proposed as critical habitat have been divided into 37 critical habitat units that contain, or have the potential to develop, areas with the primary constituent elements for the piping plover in the Great Lakes region. All critical habitat unit boundaries extend 1 km (0.62 miles) inland from the normal high water line, although the area that contains the primary constituent elements may vary depending on the extent of the open dune system. This area is needed to provide foraging habitat as well as cobble pans between the dunes where piping plovers occasionally nest. A brief description of each critical habitat unit for the piping plover is given below and in Table 2.

TABLE 2.—LOCATION, OWNERSHIP, PIPING PLOVER USE, AND ESTIMATED LENGTH OF CRITICAL HABITAT AREAS WITHIN MAPPED CONSERVATION UNITS IN THE U.S. GREAT LAKES REGION

Habitat unit	Location name	County	USGS 7.5′ quad map(s) 1:24,000 scale	Land ownership [1]	Plover use [2]	Est. length (km)
MI–1	**Whitefish Point to Grand Marais**					
	Whitefish Point	Chippewa	Whitefish Point (1951)	Federal (Service), private	Recent past, transient.	2.5
	Vermilion/Weatherhogs Beach.	Luce	Vermilion (1951)	Private	Current	2.3
	Crisp Point	Luce	Betsy Lake North (1968)	Municipal, private	Recent past	1.0
	Little Lake Harbor	Luce	Betsy Lake North (1968)	Private	Recent past	1.6
	Deer Park	Luce	Muskallonge Lake East (1968). Muskallonge Lake West (1968).	State, private	Recent past	2.8
	Grand Marais Inner Harbor and Lonesome Point.	Alger	Grand Marais 1968	Multiple private, municipal.	Current	2.9
	Grand Marais Superior Beach.	Alger	Grand Marais 1968	Multiple private, Federal (NPS).	Current	1.2
MI–2	Point Aux Chenes	Mackinac	Pointe Aux Chenes (1964, photorevised 1975).	Federal (USFS), private	Current	1.7
MI–3	Port Inland	Schoolcraft Mackinac	Hughes Point (1972)	Private/State	Current	3.0
MI–4	**Waugoshance Point to beach west of McCort Hill—**					
	Waugoshance Point, Temperance and Crane Islands.	Emmet	Big Stone Bay (1964, photoinspected 1975). Waugoshance Island (provisional 1982).	State	Current	5.0
	Sturgeon Bay	Emmet	Bliss (1982)	State	Current	3.9
	Bliss Township Park	Emmet	Bliss (1982)	Municipal	Current	1.1

TABLE 2.—LOCATION, OWNERSHIP, PIPING PLOVER USE, AND ESTIMATED LENGTH OF CRITICAL HABITAT AREAS WITHIN MAPPED CONSERVATION UNITS IN THE U.S. GREAT LAKES REGION—Continued

Habitat unit	Location name	County	USGS 7.5′ quad map(s) 1:24,000 scale	Land ownership [1]	Plover use [2]	Est. length (km)
	Sturgeon Bay Point	Emmet	Bliss (1982) Cross Village (1982)	Multiple private	Current	2.4
	Cross Village Beach	Emmet	Cross Village (1982)	Municipal, multiple private.	Current	1.3
	beach west McCort Hill	Emmet	Cross Village (1982)	Multiple private	Current	1.4
MI–5	**Sevenmile Point to Thorneswift Nature Preserve—**					
	Sevenmile Point	Emmet	Forest Beach (1983 provisional).	Multiple private	Potential	0.5
	Thorneswift Nature Preserve.	Emmet	Forest Beach (1983 provisional).	Multiple private	Current	0.4
MI–6	Petoskey State Park	Emmet	Harbor Springs (1983 provisional).	State, private	Historical	2.0
MI–7	North Point	Charlevoix	Ironton (1983) Charlevoix (1983)	Municipal	Potential	1.1
MI–8	Fisherman's Island State Park.	Charlevoix	Charlevoix (1983)	State	Current	1.3
MI–9	**Indian Point to McCauley's Point, Beaver Island—**					
	Donegal Bay-Beaver Island.	Charlevoix	Garden Island West (1980). Beaver Island North (1986).	Multiple private	Current	2.0
	McCauley's Point-Beaver Island.	Charlevoix	Beaver Island North (1986).	State	Recent past	0.6
MI–10	Greenes Bay-Beaver Island.	Charlevoix	Beaver Island North (1986).	State/private	Recent past	0.8
MI–11	High Island	Charlevoix	High Island (1986)	State	Current	1.8
MI–12	**Cathead Bay to Christmas Cove—**					
	Cathead Bay	Leelanau	Northport (provisional 1983).	State	Current	3.4
	Cathead Point to Christmas Cove.	Leelanau	Northport/Northport NW (provisional 1983).	Private	Potential	2.5
MI–13	South Fox Island	Leelanau	South Fox Island (provisional 1986).	State	Historical	1.0
MI–14	North Manitou	Leelanau	North Manitou Island (provisional 1983).	Federal (NPS)	Current	3.3
MI–15	Crystal Run to Empire Beach.	Leelanau	Glen Arbor (1983) Glen Haven (1983) Empire (1983).	Municipal, Federal	Potential	14.3
MI–16	**Esch Road to Sutter Road and Point Betsie—**					
	Platte Bay	Benzie	Empire (1983) Beulah (provisional 1983).	Federal (NPS)	Potential	7.0
	Platte River Point and beach.	Benzie	Beulah (provisional 1983)	Federal (NPS)	Current	5.5
	Point Betsie	Benzie	Frankfort (1983)	Federal (USCG) TNC managed.	Historical	1.0
MI–17	Nordhouse Dunes to Ludington.	Mason	Manistee NW (provisional 1982). Hamlin Lake (1982)	Federal (USFS), State	Transient, historical.	13.4
MI–18	Muskegon State Park	Muskegon	Muskegon West (1972 photoinspected 1980).	State	Historical	2.5
MI–19	Lake Superior State Forest-St. Vital Point.	Chippewa	Albany Island (1964 photoinspected 1976) DeTour Village (1964).	State	Historical	3.0
MI–20	**Lighthouse Point to Cordwood Point—**					
	Lighthouse Point	Cheboygan	Cheboygan (1982)	State	Recent past	1.4
	Grass Bay	Cheboygan	Cordwood Point (1982)	TNC preserve	Historical, transient.	1.6
MI–21	PH Hoeft State Park	Presque Isle	Roger's City (1971) Moltke (1971)	State	Potential	3.7
MI–22	Thompson's Harbor	Presque Isle	Thompson's Harbor (1971).	State forest	Potential	2.8
MI–23	Tawas Point State Park	Iosco	East Tawas (1989)	State	Transient	2.0
MN–1	Duluth Harbor	St. Louis	West Duluth (1953, photorevised 1969).	Municipal, State, and private.	Recent past	2.8

TABLE 2.—LOCATION, OWNERSHIP, PIPING PLOVER USE, AND ESTIMATED LENGTH OF CRITICAL HABITAT AREAS WITHIN MAPPED CONSERVATION UNITS IN THE U.S. GREAT LAKES REGION—Continued

Habitat unit	Location name	County	USGS 7.5′ quad map(s) 1:24,000 scale	Land ownership [1]	Plover use [2]	Est. length (km)
WI–1	Wisconsin Point	Douglas	Parkland (1954, photorevised 1975). Superior (1954, photorevised 1983).	Municipal	Historical	4.0
WI–2	Long Island-Chequamegon Pt.	Ashland	Cedar (1964, photorevised 1975). Chequamegon Point (1964, photorevised 1975). Long Island (1964).	Federal (NPS), tribal (Bad River).	Current	5.0
WI–3	Western Michigan Island	Ashland	Michigan Island (1963)	Federal (NPS)	Potential	6.5
WI–4	Seagull Bar	Marinette	Marinette East (1963, photorevised 1969).	Municipal	Potential	1.5
WI–5	Peshtigo Point	Marinette	Peshtigo Harbor (1974)	State	Potential	2.8
WI–6	Pensaukee	Oconto	Pensaukee (1974)	Federal (ACOE)	Historical	0.5
WI–7	Point Beach State Forest	Manitowoc	Two Rivers (1978)	State	Potential	8.0
IL–1	Illinois Beach State Park to Waukegan Beach.	Lake	Zion, Ill. (1993) Waukegan (1993)	Municipal, State, private	Historical	10.2
IN–1	Indiana Dunes National Lakeshore/Indiana Dunes State Park.	Porter	Ogden Dunes (1991) Dune Acres (1991)	Federal (NPS), State	Historical, transient.	10.5
OH–1	Sheldon Marsh	Erie	Huron (1969) Sandusky (1969, photorevised 1975).	State	Transient	1.2
OH–2	Headlands Dunes	Lake	Mentor (1963, revised 1992).	State	Potential	0.8
PA–1	Presque Isle State Park	Erie	Erie North (1957, revised 1969 and 1975, photoinspected 1977).	State, Federal (USCG)	Historical, transient.	1.5
NY–1	Salmon River to Stony Point.	Oswego Jefferson	Pulaski (1956) Ellisburg (1958) Henderson (1959)	State, multiple private	Historical	27.4

[1] USACE = U.S. Army Corp of Engineers.
NPS = National Park Service.
TNC = The Nature Conservancy.
USFS = U.S. Forest Service.
USFWS = U.S. Fish and Wildlife Service.
USCG = U.S. Coast Guard.
[2] Current = used for nesting since 1995 (49 km).
Recent past = used for nesting since 1985 (11.8 km).
Historical = used for nesting prior to 1985 (65 km).
Transient = Recent (since 1990) sightings of piping plovers (18 km).
Potential = no known record of use but habitat appears suitable for nesting (52 km).

Michigan

Unit MI–1: Whitefish Point to Grand Marais

This unit encompasses approximately 83.5 km (50 mi) of Lake Superior shoreline in Chippewa, Luce, and Alger Counties on the Upper Peninsula of Michigan. It includes long stretches of habitat that have been recently used by piping plovers in addition to areas currently used by plovers. Approximately 47 km (29.2 mi) are part of Muskallonge State Park and Lake Superior State Forest, approximately 36 km (22.4 mi) are privately owned, and approximately 0.5 km (0.3 mi) are part of Whitefish Point National Wildlife Refuge. This unit also includes a small area of municipal property at Crisp Point. This unit extends from the junction of the southern boundary of T50N R5W section 6 to the Pictured Rocks National Lakeshore property boundary.

Unit MI–2: Pointe Aux Chenes

This unit encompasses approximately 2 km (1.2 mi) of Lake Michigan shoreline in Mackinac County on the Upper Peninsula of Michigan. It includes areas that are currently occupied by piping plovers. The majority of the unit (1.1 km (0.7 mi)) is within the Hiawatha National Forest and is being considered for a Research and Natural Area. The rest of the unit (approximately 0.6 km (0.4 mi)) is privately owned land. This unit extends from the mouth of the Pointe Aux Chenes river to the Hiawatha National Forest property boundary.

Unit MI–3: Port Inland to Hughes Point

This unit encompasses approximately 3 km (1.8 mi) of Lake Michigan shoreline in western Mackinac and eastern Schoolcraft Counties on the Upper Peninsula of Michigan. It includes areas that are currently occupied by piping plovers. Approximately 0.8 km (0.5 mi) of the proposed shoreline is owned by Port Inland Stone and Dolomite Quarry and the remaining 2.2 km (1.4 mi) are part of the Lake Superior State Forest. This unit extends from the westernmost breakwall at the Port Inland Gaging Station to the mouth of Swan Creek.

Unit MI–4: Waugoshance Point to McCort Hill Beach

This unit encompasses approximately 32 km (19.2 mi) of Lake Michigan shoreline in Emmet County, Michigan, and includes Temperance and Waugoshance islands. It includes areas that are currently occupied by piping plovers and supports about half of the current Great Lakes piping plover population. Approximately 8.5 km (5.3 mi) are privately owned and 1 km (0.6 mi) is municipal land (Bliss Township beach and Cross Village beach). The remaining 22.5 km (14 mi) are part of Wilderness State Park. This unit extends from the junction of the northeast corner of T39N R5W section 28 and the Lake Michigan shoreline to the southwest boundary of T37N R6W section 5.

Unit MI–5: Sevenmile Point to Thornswift Nature Preserve

This unit encompasses approximately 7 km (4.3 mi) of Lake Michigan shoreline in Emmet County, Michigan. It includes areas of potential piping plover nesting habitat and areas that are currently occupied by piping plovers. The entire proposed area is under private ownership. It extends from the junction of the Lake Michigan shoreline and the northwest boundary of T36N R5W section 30 to the junction of the shoreline and the southwest corner of T35N R5W section 9.

Unit MI–6: Petoskey State Park

This unit encompasses approximately 2 km (1.2 mi) of Lake Michigan shoreline in Emmet County, Michigan. It includes areas of historical piping plover habitat. Approximately 0.7 km (0.4 mi) is privately owned land and 1.3 km (0.8 mi) are part of Petoskey State Park. This unit extends from the mouth of Tannery Creek to Mononaqua Beach.

Unit MI–7: North Point

This unit encompasses approximately 1.1 km (0.7 mi) of Lake Michigan shoreline in Charlevoix County, Michigan. It includes areas of potential piping plover nesting habitat. The entire proposed area is a city park owned by the city of Charlevoix. It includes all Lake Michigan shoreline within T34N R8W section 14.

Unit MI–8: Fisherman's Island State Park

This unit encompasses approximately 1.3 km (0.8 miles) of Lake Michigan shoreline in Charlevoix County, Michigan. It includes areas that are currently occupied by piping plovers. The entire proposed area is within Fisherman's Island State Park. This unit extends from the junction of the line separating T34N R8W section 31 and T33N R8W section 6 from the Lake Michigan shore to the Fisherman's Island State Park property boundary at the end of Lakeshore Drive.

Unit MI–9: Indian Point to McCauley's Point, Beaver Island

This unit encompasses approximately 5 km (3.1 mi) of Lake Michigan shoreline on Beaver Island in Charlevoix County, Michigan. It includes areas that are currently occupied, as well as areas that have been recently used by piping plovers. Approximately 4.4 km (2.7 mi) are privately owned and 0.6 km (0.4 mi) is part of Beaver Islands State Wildlife Research Area. This unit extends from Indian Point to the junction of the dividing line of T39 N R10W and T38N R10W and the Lake Michigan shoreline.

Unit MI–10: Greenes Bay, Beaver Island

This unit encompasses approximately 0.8 km (0.5 mi) of Lake Michigan shoreline on Beaver Island in Charlevoix County, Michigan. It includes areas that have been recently used by piping plovers. Approximately 0.3 km (0.2 mi) is part of the Beaver Islands State Wildlife Research Area and the remaining 0.5 km (0.3 mi) is privately owned land. This unit extends from the junction of Lake Michigan and the northwest corner of T38N R11W section 25 to the junction of the Lake Michigan shoreline and the dividing line between T39N and T38N R10W.

Unit MI–11: High Island

This unit encompasses approximately 1.8 km (1.1 mi) of Lake Michigan shoreline on High Island in Charlevoix County, Michigan. It includes areas that are currently occupied by piping plovers. The entire proposed area is part of the Beaver Islands State Wildlife Research Area. This unit includes all Lake Michigan shoreline within T39N R11W sections 5, 27, and 32.

Unit MI–12: Cathead Bay to Christmas Cove

This unit encompasses approximately 5.9 km (3.7 mi) of Lake Michigan shoreline in Leelanau County, Michigan. It includes areas that are currently occupied by piping plovers and areas of potential piping plover nesting habitat. Approximately 1.9 km (1.2 mi) are part of Leelanau State Park, and the remaining 4.0 km are privately owned land. This unit extends from the intersection of the Lake Michigan shoreline and the line between T32N R11W section 12 and T32N R10W section 7 to the intersection of the shoreline with the southern boundary of T32N R11W section 16 north of Christmas Cove (Northport NW quad).

Unit MI–13: South Fox Island

This unit encompasses approximately 1 km (0.6 mi) of Lake Michigan shoreline on South Fox Island in Leelanau County, Michigan. It includes areas that were historically occupied by piping plovers. The entire proposed area is part of the Beaver Island State Wildlife Research Area. This unit includes all Lake Michigan shoreline within T34N R13W sections 15, 16, and 21 and T35R13W section 30.

Unit MI–14: North Manitou Island

This unit encompasses approximately 3.3 km (2 mi) of Lake Michigan shoreline on North Manitou Island in Leelanau County, Michigan. It includes areas that are currently occupied by piping plovers. The entire proposed area is part of Sleeping Bear Dunes National Lakeshore. This unit includes all Lake Michigan shoreline within T31N R14W sections 22, 23, 27, and 28.

Unit MI–15: Crystal Run to Empire Beach

This unit encompasses approximately 14.3 km (8.9 mi) of Lake Michigan shoreline in Leelanau County, Michigan. It includes areas of potential piping plover nesting habitat. Approximately 4.0 km (2.5 mi) are municipal beach, and the remaining 10.3 km (6.4 mi) are part of Sleeping Bear Dunes National Lakeshore. This unit extends from Crystal Run to the southern Sleeping Bear Dunes National Lakeshore property boundary.

Unit MI–16: Esch Road to Sutter Road and Point Betsie

This unit encompasses approximately 13.5 km (8.4 mi) of Lake Michigan shoreline in Benzie County, Michigan. It includes areas that are currently occupied by piping plovers, areas that were historically occupied, and areas of potential piping plover nesting habitat. The majority of the unit (12.5 km (7.8 mi)) is part of Sleeping Bear Dunes National Lakeshore, and the remaining 1.0 km (0.6 mi) is U.S. Coast Guard land that is managed by The Nature Conservancy, a private conservation organization. This unit extends from Esch Road to T26N R16W section 4.

Unit MI–17: Nordhouse Dunes and Ludington State Park

This unit encompasses approximately 13.4 km (8.3 mi) of Lake Michigan shoreline in Mason County, Michigan. It includes areas that were historically occupied by piping plovers. At least one pair of piping plovers were sighted in

the area in 1999, but no nests were found. Approximately 7.4 km (4.6 mi) are part of the Manistee National Forest/Nordhouse Dunes Wilderness Area, and the remaining 6.0 km (3.7 mi) are part of Ludington State Park. This unit extends from the mouth of Cooper Creek to the mouth of the Big Sable River.

Unit MI–18: Muskegon State Park

This unit encompasses approximately 2.5 km (1.6 mi) of Lake Michigan shoreline in Muskegon County, Michigan. It includes areas that were historically occupied by piping plovers. In the early 1950s, several pairs of piping plovers were reported nesting in this unit, but the last known nesting was in 1953. The entire proposed area is part of Muskegon State Park. This unit extends from the north breakwall of the canal joining Muskegon Lake and Lake Michigan to the northern Muskegon State Park property boundary at the shoreline.

Unit MI–19: Lake Superior State Forest-St. Vital Point

This unit encompasses approximately 3.0 km (1.9 mi) of Lake Huron shoreline in Chippewa County, Michigan. It includes areas that were historically occupied by piping plovers. The entire proposed area is within Lake Superior State Forest. This unit extends from the Lake Superior State Forest boundary to the mouth of Joe Straw Creek.

Unit MI–20: Lighthouse Point to Cordwood Point

This unit encompasses approximately 8.3 km (5.2 mi) of Lake Huron shoreline in Cheboygan County, Michigan. It includes areas that were historically occupied by piping plovers and currently serve as foraging areas. Approximately 3 km (1.9 mi) are part of Cheboygan State Park, and approximately 1.6 km (1 mi) are Nature Conservancy property. The remaining 0.6 km (0.4 mi) is privately owned land. This unit extends from the junction of the Lake Huron shoreline and the western boundary of T38N R1W section 22 to just west of Cordwood Point (Cordwood Point quad).

Unit MI–21: P.H. Hoeft State Park

This unit encompasses approximately 3.7 km (2.3 mi) of Lake Huron shoreline in Presque Isle County, Michigan. It includes areas of potential piping plover nesting habitat. The entire proposed area is part of P.H. Hoeft State Park. This unit includes Lake Huron shoreline from T35N R5E section 6 to the junction of Nagel Road and Forty Mile Road.

Unit MI–22: Thompson's Harbor State Park

This unit encompasses approximately 2.8 km (1.7 mi) of Lake Huron shoreline in Presque Isle County, Michigan. It includes areas of potential piping plover nesting habitat. Most of this proposed area is within Thompson's Harbor State Park with a small portion of privately owned land. This unit extends along the Lake Huron shoreline from Black Point to Grand Lake Outlet.

Unit MI–23: Tawas Point State Park

This unit encompasses approximately 2.0 km (1.2 mi) of Lake Huron shoreline in Iosco County, Michigan. It includes areas used for foraging by transient piping plovers and potential nesting habitat. The entire proposed area is part of Tawas Point State Park. This unit extends from the Tawas Sate Park boundary on the east side of Tawas Point to T22N R8E section 34.

Minnesota

Unit MN–1: Duluth Harbor

This unit encompasses approximately 2.8 km (1.7 mi) of Lake Superior mainland and island shoreline in St. Louis County, Minnesota, including Erie Pier, Hearding Island, and Interstate Island. It includes areas that have been recently occupied by piping plovers. The approximate 1 km (0.6 mi) of shoreline at Erie Pier is owned by the city of Duluth. The approximate 1.2 km (0.7 mi) of island shore line on Hearding Island is a State Wildlife Management Area and bird sanctuary. A portion of the 0.6 km (0.4 mi) of island shoreline on Interstate Island is in Minnesota, and a portion is in Wisconsin. Approximately 0.2 km (0.1 mi) of Interstate Island shoreline is owned by the State of Minnesota and is a State Wildlife Management Area and bird sanctuary. The remaining 0.4 km (0.2 mi) of Interstate Island shoreline is in Wisconsin and is private land owned by C. Rice Coal and Burlington Northern Railroad. This unit includes the dredge spoil flats bounded by the seawall northeast of the railroad tracks in Duluth as well as Interstate and Hearding Islands.

Wisconsin

Unit WI–1: Wisconsin Point

This unit encompasses approximately 4.0 km (2.5 mi) of Lake Superior shoreline in Douglas County, Wisconsin. It includes areas that were historically occupied by piping plovers. The entire proposed area is municipal land belonging to the city of Superior. This unit extends from the mouth of Dutchman Creek to the Douglas and St. Louis County line.

Unit WI–2: Long Island/Chequamegon Point

This unit encompasses approximately 18 km (11.2 mi) of Lake Superior shoreline in Ashland County, Wisconsin. It includes areas currently occupied by piping plovers. Nesting occurred in this unit in 1998 and 1999. Approximately 13 km (8.1 mi) are part of the Apostle Islands National Lakeshore, and the remaining 5 km (3.1 mi) are Tribal lands belonging to the Bad River Band of Lake Superior Tribe of Chippewa Indians. This unit extends from the mouth of the Newago Creek to Chequamegon Point Light.

Unit WI–3: Western Michigan Island Beach and Dunes

This unit encompasses approximately 6.5 km (4 mi) of Lake Superior shoreline on Michigan Island in Ashland County, Wisconsin. It includes areas of potential piping plover nesting habitat. The entire proposed area is part of the Apostle Island National Lakeshore. This unit includes all Lake Superior shoreline on Michigan Island within T51N R1W sections 28, 20, and 21.

Unit WI–4: Seagull Bar

This unit encompasses approximately 1.5 km (0.9 mi) of Lake Michigan shoreline in Marinette County, Wisconsin. It includes areas of potential piping plover nesting habitat. The entire proposed area is municipal land. This unit extends from the end of Leonard Street at Red Arrow Park to the south end of Seagull Bar including nearshore sand bars.

Unit WI–5: Peshtigo Point

This unit encompasses approximately 2.8 km (1.7 mi) of Lake Michigan shoreline in Marinette County, Wisconsin. It includes areas of potential piping plover nesting habitat. The entire proposed area is part of the Peshtigo Harbor State Wildlife Area. This unit extends from Peshtigo Point to the mouth of the Peshtigo River.

Unit WI–6: Pensaukee Dredge Spoil Island

This unit encompasses less than 0.5 km (0.3 mi) of Lake Michigan island shoreline in Oconto County, Wisconsin. It includes areas that were historically occupied by piping plovers. The island is a U.S. Army Corp of Engineers dredge spoil island. This unit includes the island just south of the mouth of the Pensaukee River in T27N, R21E section 14.

Unit WI–7: Point Beach State Forest

This unit encompasses approximately 8 km (5 mi) of Lake Michigan shoreline in Manitowoc County, Wisconsin. It includes areas of potential piping plover nesting habitat. The entire proposed area is part of the Point Beach State Forest. This unit extends from the southwest property boundary of Point Beach State Forest to Rawley Point.

Illinois

Unit IL–1: Illinois Beach State Park / Nature Preserve to Waukegan Beach

This unit encompasses approximately 10.2 km (6.3 mi) of Lake Michigan shoreline in Lake County, Illinois. It includes areas that were historically occupied by piping plovers. Approximately 4.7 km (2.9 mi) are part of the Illinois Beach State Park and Nature Preserve, approximately 1.3 km (0.8 mi) are municipal property (Zion municipal park and Waukegan municipal beach), and the remaining 4.2 km (2.6 mi) are privately owned. This unit extends from 17th Street and the Lake Michigan shoreline in Illinois Beach State Park to the Waukegan Beach breakwall at North Beach Park.

Indiana

Unit IN–1: Indiana Dunes National Lakeshore and Indiana Dunes State Park Beaches

This unit encompasses approximately 10.5 km (6.5 mi) of Lake Michigan shoreline in Porter County, Indiana. It includes areas that were historically occupied by piping plovers. Approximately 5 km (3.1 mi) are part of Indiana Dunes State Park and the remaining 5.5 km (3.4 mi) are part of Indiana Dunes National Lakeshore. This unit extends from the Burns Harbor eastern breakwall along the Indiana Dunes State Park to Kemil Road at Beverly Shores.

Ohio

Unit OH–1: Sheldon Marsh

This unit encompasses approximately 3.2 km (2.0 mi) of Lake Erie shoreline in Erie County, Ohio. It includes areas that are used by transient piping plovers and potential nesting habitat. Approximately 1.2 km (0.7 mi) are part of Sheldon Marsh State Nature Preserve, and the remaining 2.0 km (1.2 mi) are privately owned land. This unit extends from the mouth of Sawmill Creek to the western property boundary of Sheldon Marsh State Natural Area.

Unit OH–2: Headland Dunes

This unit encompasses approximately 0.8 km (0.5 mi) of Lake Erie shoreline in Lake County, Ohio. It includes areas of potential piping plover nesting habitat. The entire proposed area is part of Headland Dunes State Nature Preserve. This unit extends from the eastern boundary line of Headland Dunes Nature Preserve to the western boundary of the Nature Preserve and Headland Dunes State Park.

Pennsylvania

Unit PA–1: Gull Point Natural Area, Presque Isle State Park

This unit encompasses approximately 1.5 km (0.9 mi) of Lake Erie shoreline in Erie County, Pennsylvania. It includes foraging areas for transient piping plovers and areas that were historically occupied. Approximately 1.1 km (0.7 mi) are part of the Presque Isle State Park, and the remaining 0.4 km (0.2 mi) is U.S. Coast Guard property. This unit extends from the lighthouse north of Peninsula Drive on the north side of Presque Isle to the breakwall south of the Coast Guard Station on Thompson Bay. It includes any new beach habitat that may accrete along the present shoreline portion of the unit.

New York

Unit NY–1: Salmon River to Stony Point

This unit encompasses approximately 27.4 km (17 mi) of Lake Ontario shoreline in Jefferson and Oswego Counties, New York. It includes areas that were historically occupied by piping plovers. Approximately 12.4 km (7.7 mi) are State land (New York State Department of Environmental Conservation (DEC) Wildlife Management Area/ New York DEC Unique Area and New York State Park), approximately 14.6 km (9.1 mi) are privately owned, and the remaining 0.4 km (0.2 mi) belong to The Nature Conservancy. This unit extends from the mouth of the Salmon River to the Eldorado Road.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a) of the Act requires all Federal agencies to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. Individuals, organizations, States, tribes, local governments, and other non-Federal entities are affected by the designation of critical habitat only 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 all 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 requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed or critical habitat is designated, 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 the 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 consult with us.

When we issue a biological opinion concluding that a Federal action is likely to result in the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that we believe would avoid resulting in the destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where critical habitat is subsequently designated and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation or conferencing with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

We may issue a formal conference report on proposed critical habitat if requested by a Federal agency. Formal conference reports on proposed critical habitat contain a biological opinion that is prepared according to 50 CFR 402.14, as if the proposed critical habitat were already designated. Conference reports, required for species proposed for listing as threatened or endangered, or for proposed critical habitat designations, provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the agency's proposed action. The conservation recommendations in a conference report are advisory. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no significant new information or changes in the Federal action alter the content of the opinion (see 50 CFR 402.10(d)).

Section 4(b)(8) of the Act requires us to evaluate briefly in any proposed or final regulation that designates critical habitat those activities that may adversely modify such habitat or may be affected by such designation. Activities that may destroy or adversely modify critical habitat include those that alter the primary constituent elements to the extent that the value of critical habitat for both the survival and recovery of the Great Lakes breeding population of the piping plover is appreciably diminished. In the case of occupied habitat, such activities may also jeopardize the continued existence of the Great Lakes population of piping plovers. In the case of unoccupied habitat, such activities may alter the ability of an area to develop the primary constituent elements.

An activity will likely not adversely modify critical habitat within a designated critical habitat unit if the specific area does not contain any primary constituent elements. For example, existing areas such as parking lots, paved roads, and various kinds of human-built structures within critical habitat unit boundaries would not furnish habitat or biological features for piping plovers. Furthermore, some activities would not be restricted by critical habitat designation because they would have no adverse effect on the primary constituent elements or the ability of an area to develop those elements.

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, the effects of destruction or adverse modification of critical habitat would almost always be reflected in the effects on the species itself when the area of the proposed action is occupied by the species concerned. Designation of critical habitat in areas occupied by the piping plover is not likely to result in regulatory protection of the species above that already in place due solely to the presence of the listed species. However, designation of critical habitat in areas that are not known to be occupied by this species may result in additional consultations between us and other Federal agencies; these additional consultations may affect Federal actions beyond those that are already affected by the listing of the piping plover as endangered.

Federally funded, permitted, or authorized activities that could adversely affect critical habitat of the Great Lakes breeding population of the piping plover include, but are not limited to the following: (1) Marina and boat launch construction and maintenance; (2) harbor dredging and dredge spoil placement and disposal; (3) fill of interdunal wetlands for residence, driveway, or other construction; (4) waste-water discharge from communities; (5) all-terrain vehicular activity on beaches or the construction of facilities that increase such activity; (6) beach stabilization activities that impede natural overwash processes including beach nourishment, planting of vegetation, and construction and maintenance of seawalls, breakwaters, and other off-shore stabilizing devices; and (7) sale, exchange, or lease of Federal land that contains suitable habitat that is likely to result in the habitat being destroyed or appreciably degraded. Additionally, public access may be temporarily or seasonally restricted on beaches having a Federal nexus in order to determine which areas may be utilized for nesting. These beaches could be closed to assess the use by piping plovers in the spring months. Some of these closures may be voluntary by governmental and private land managers. Most closures would end prior to the time the public would frequent these beaches. Designation of critical habitat for piping plovers breeding in the Great Lakes notifies the U.S. Army Corps of Engineers, other permitting agencies, and the public that the Clean Water Act section 404 nationwide permits and other Federal authorizations for activities within these designated critical habitat areas must comply with section 7 consultation requirements. For each section 7 consultation, we will review the direct and indirect effects of the proposed projects on piping plovers and their critical habitat.

Relationship to Incidental Take Permits Issued Under Section 10

One habitat conservation planning effort is currently in progress within the range of the Great Lakes breeding population of piping plovers. The Magic Carpet Woods Association applied to the Service for an Incidental Take Permit for the piping plover. Incidental take is a potential indirect result of the applicant's proposed residential development along a 0.8 km (0.5 mi) section of Lake Michigan beach in Leelanau County, Michigan. A Habitat Conservation Plan (HCP) submitted with the application will likely avoid or minimize incidental take of piping plovers. The proposed development falls within proposed piping plover critical habitat; however, no construction is proposed on the beach portion of the property. We will continue to work with the applicant so as to prevent the project from adversely modifying or destroying proposed critical habitat. The beach on this property currently does not constitute piping plover nesting habitat, but likely provides foraging habitat and potential nesting habitat.

In the event that additional HCPs covering the Great Lakes piping plover are developed in the future within the proposed critical habitat, we will work with applicants to ensure the HCPs provide for protection and management of habitat areas essential for the conservation of the piping plover, while directing development and habitat modification to nonessential areas of lower habitat value. The HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the piping plover. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the species. We fully

expect that HCPs undertaken by local jurisdictions (*e.g.*, townships, counties) and other parties will identify, protect, and provide appropriate management for lands that are essential for the long-term conservation of the species. We believe that our analyses of future HCPs and future permits under section 7 will show that activities carried out in accordance with the provisions of the HCPs and permits will not result in destruction or adverse modification of critical habitat.

We will provide technical assistance and work closely with applicants throughout the development of HCPs to identify appropriate conservation management and lands essential for the long-term conservation of the piping plover and assure that they do not adversely modify or destroy the critical habitat. We are soliciting comments on whether future approval of HCPs and issuance of section 10(a)(1)(b) permits for the piping plover should trigger revisions of designated critical habitat to exclude lands within HCP areas, and, if so, by what mechanism (see Public Comments Solicited section).

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific and commercial information available and to consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas as critical habitat upon a determination that the benefits of such exclusion 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 will conduct an analysis of the economic impacts of designating these areas as critical habitat prior to a final determination. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and we will reopen the comment period for 30 days at that time to accept comment on the economic analysis or further comments on the proposed rule.

Public Comments Solicited

We intend that any final action resulting from the proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, Native American Tribes, 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 for the Great Lakes breeding population of piping plovers as provided by section 4 of the Act, including whether the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat;

2. Specific information on the amount and distribution of piping plover nesting habitat in the Great Lakes region, and what nesting habitat is essential to the conservation of the Great Lakes breeding population of the species and why;

3. Specific information on the amount and distribution of Great Lakes breeding piping plovers;

4. Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

5. Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families;

6. Economic and other values associated with designating critical habitat for the Great Lakes breeding population of piping plover, such as those derived from non-consumptive uses (*e.g.,* hiking, camping, birdwatching, enhanced watershed protection, ''existence values,'' and reductions in administrative costs; and

7. The advisability of designating as critical habitat sites that are not documented to have occupied historically but are deemed potential breeding habitat because their characteristics are suitable for breeding by piping plovers.

Additionally, we are seeking comments on critical habitat designation relative to future HCPs. Future conservation planning efforts may occur within the range of the piping plover in areas we are proposing as critical habitat. We invite comments on the appropriateness of the following alternative approaches we are considering regarding critical habitat designations within the boundaries of future approved HCPs upon issuance of section 10(a)(1)(B) permits for the piping plover.

(1) Retain critical habitat designation within the HCP boundaries and use the section 7 consultation process on the issuance of the incidental take permit to ensure that any take we authorize will not destroy or adversely modify critical habitat;

(2) Revise the critical habitat designation upon approval of the HCP and issuance of the section 10(a)(1)(B) permit to retain only preserve areas, on the premise that they encompass areas essential for the conservation of the species within the HCP area and require special management and protection in the future. Assuming that we conclude, at the time an HCP is approved and the associated incidental take permit is issued, that the plan protects those areas essential to the conservation of the piping plover, we would revise the critical habitat designation to exclude areas outside the reserves, preserves, or other conservation lands established under the plan. Consistent with our listing program priorities, we would publish a proposed rule in the **Federal Register** to revise the critical habitat boundaries;

(3) As in (2) above, retain only preserve lands within the critical habitat designation, on the premise that they encompass areas essential for conservation of the species within the HCP area and require special management and protection in the future. However, under this approach, the exclusion of areas outside the preserve lands from critical habitat would occur automatically upon issuance of the incidental take permit. The public would be notified and have the opportunity to comment on the boundaries of the preserve lands and the revision of designated critical habitat during the public review and comment process for HCP approval and permitting;

(4) Remove designated critical habitat entirely from within the boundaries of an HCP when the plan is approved (including preserve lands), on the premise that the HCP establishes long-term commitments to conserve the species and no further special management or protection is required. Consistent with our listing program priorities, we would publish a proposed rule in the **Federal Register** to revise the critical habitat boundaries; or

(5) Remove designated critical habitat entirely from within the boundaries of HCPs when the plans are approved (including preserve lands), on the premise that the HCP establishes long-term commitments to conserve the species and no additional special management or protection is required. This exclusion from critical habitat would occur automatically upon issuance of the incidental take permit. The public would be notified and have the opportunity to comment on the revision of designated critical habitat during the public notification process for HCP approval and permitting.

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. In some circumstances, we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish for us to withhold your name and/or address, you must state this request 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. All comments, including written and e-mail, must be received by September 5, 2000.

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 and critical habitat decisions are based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the 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 60-day comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations/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 rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may e-mail your comments to this address: Execsec@ios.doi.gov.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule and has been reviewed by the Office of Management and Budget (OMB), under Executive Order 12866.

(a) This rule will not have an annual economic effect of $100 million or more or adversely affect an economic sector, productivity, jobs, the environment, or other units of government. The Great Lakes breeding population of piping plover was listed as an endangered species in 1985. In fiscal years 1992 through 1999, we conducted only one formal section 7 consultation with other Federal agencies to ensure that their actions would not jeopardize the continued existence of the piping plover.

Approximately 255 km (159 mi) of the areas encompassing proposed critical habitat for the Great Lakes breeding population of piping plovers are currently unoccupied by piping plovers. The remaining 49 km (30 mi) of the total designated critical habitat area are currently occupied by piping plovers. Under the Act, critical habitat may not be adversely modified or destroyed by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency (see Table 3 below). Section 7 requires Federal agencies to ensure that they do not jeopardize the continued existence of the species.

The designation of currently occupied areas as critical habitat does not have any incremental impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding. Non-Federal persons that do not have a Federal ''sponsorship'' of their actions are not restricted by the designation of critical habitat (however, they continue to be bound by the provisions of the Act concerning ''take'' of the species).

Designation of unoccupied areas as critical habitat may have impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons that receive Federal authorization or funding, but we expect little additional impact from designating these areas as critical habitat. We will evaluate this impact through our economic analysis (see Economic Analysis section of this rule).

(b) This rule will not create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions do not jeopardize the continued existence of piping plovers since the listing in 1985. The prohibition against adverse modification of critical habitat is not expected to impose any additional restrictions to those that currently exist in occupied areas of proposed critical habitat. Additional restrictions may be imposed in unoccupied areas proposed as critical habitat; we will evaluate this possibility through our economic analysis. Because of the potential for impacts on other Federal agency activities, we will continue to review this proposed action for any inconsistencies with other Federal agency actions.

(c) This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. Federal agencies are currently required to ensure that their activities do not jeopardize the continued existence of the species, and, as discussed above, we do not anticipate that the adverse modification prohibition (resulting from critical habitat designation) will have any additional effects in areas of occupied habitat. The critical habitat designation may have some additional effects on the unoccupied areas of proposed critical habitat. We will review the effects of this proposed action on Federal agencies or non-Federal persons that receive Federal authorization or funding in the area of critical habitat with unknown occupancy.

(d) This rule will not raise novel legal or policy issues. The proposed rule follows the requirements for determining critical habitat contained in the Endangered Species Act.

TABLE 3.—ACTIVITIES POTENTIALLY IMPACTED BY PIPING PLOVER LISTING AND CRITICAL HABITAT DESIGNATION

Categories of activities	Activities potentially affected by species listing only [1]	Additional activities potentially affected by critical habitat designation [2]
Federal Activities Potentially Affected [3]	Direct take and activities such as removing or destroying piping plover breeding habitat, whether by mechanical, chemical, or other means (*e.g.,* construction, road building, boat launch and marina construction or maintenance, beach nourishment); recreational activities that significantly deter the use of suitable habitat areas by piping plovers or alter habitat through associated maintenance activities (*e.g.,* off-road vehicle parks, paved walking paths); sale, exchange, or lease of Federal land that contains suitable habitat that may result in the habitat being destroyed or appreciably degraded (*e.g.,* shoreline development, building of recreational facilities such as off-road vehicle parks, road building); activities that may result in increased human activity and disturbance..	None in occupied habitat. In unoccupied habitat, no additional types of activities will be affected, but consultation will be required on these activities in additional areas.
Private and other non-Federal Activities Potentially Affected [4].	Direct take and activities such as removing or destroying piping plover habitat, whether by mechanical, chemical, or other means (*e.g.,* construction, road building, boat launch and marina construction or maintenance, beach nourishment) and appreciably decreasing habitat value or quality (*e.g.,* increased predation, invasion of exotic species, increased human presence or disturbance) that require a Federal action (permit, authorization, or funding).	None in occupied habitat. In unoccupied habitat, no additional types of activities will be affected, but consultation will be required on these activities by the Federal agency that regulates that Federal action in additional areas.

[1] This column represents the activities potentially affected by listing the piping plover as an endangered species (December 11, 1985; 50 FR 50726) under the Endangered Species Act.
[2] This column represents the activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[3] Activities initiated by a Federal agency.
[4] Activities initiated by a private or other non-Federal entity that may need Federal authorization or funding.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

In the economic analysis, we will determine whether designation of critical habitat will have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above, this rule is not expected to result in any restrictions in addition to those currently in existence for areas of occupied critical habitat. However, we would expect additional restrictions in areas of unoccupied habitat. As indicated on Table 1 (see Proposed Critical Habitat Designation section), we designated property owned by Federal, State, tribal, and local governments, and private property.

Within these areas, the types of Federal actions or authorized activities that we have identified as potentially adversely modifying critical habitat are:

(1) Regulation of activities affecting waters of the United States by the U.S. Army Corps of Engineers under section 404 of the Clean Water Act;

(2) Regulation of water flows, water delivery, and diversion by Federal agencies;

(3) Sale, exchange, or lease of lands owned by a Federal agency;

(4) Road construction and maintenance and right-of-way designation;

(5) Funding of low-interest loans to facilitate the construction of low-income housing by the Department of Housing and Urban Development;

(6) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency;

(7) Promulgation of air and water quality standards under the Clean Air Act and the Clean Water Act and the cleanup of toxic waste and superfund sites under the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act by the U.S. Environmental Protection Agency;

(8) Issuance of Endangered Species Act section 10(a)(1)(B) permits by the Fish and Wildlife Service; and

(9) Activities funded, carried out, or authorized by any Federal agency.

Many of these activities sponsored by Federal agencies within the proposed critical habitat areas are carried out by small entities (as defined by the Regulatory Flexibility Act) through contract, grant, permit, or other Federal authorization. As discussed above, these actions are currently required to comply with the listing protections of the Act, and the designation of critical habitat is not anticipated to have any additional effects on these activities in areas of critical habitat occupied by the species. We expect little additional effect for the unoccupied areas of proposed critical habitat. In the economic analysis, we will evaluate whether designation of critical habitat in the unoccupied areas will have an effect on activities carried out by small entities.

For actions on non-Federal property that do not have a Federal connection (such as funding or authorization), the current restrictions concerning take of the species remain in effect, and this rule will have no additional restrictions.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we will determine whether designation of critical habitat will 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.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Small governments will be affected only to the extent that any of their actions involving Federal funding or authorization must not destroy or adversely modify the critical habitat in areas where they have not previously undergone consultation not to jeopardize the species.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, *i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

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. Critical habitat designation is applicable only 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, the rule does not have significant Federalism effects. A Federalism assessment is not required. 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 Minnesota, Wisconsin, Michigan, Illinois, Indiana, Ohio, Pennsylvania, and New York, as well as during the listing process. We will continue to coordinate any future designation of critical habitat for the Great Lakes piping plover with the appropriate State agencies. The designation of critical habitat for the piping plover imposes few additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, doing so may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We designate critical habitat in accordance with the provisions of the Act and plan public hearings on the proposed designation during the comment period. The rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Great Lakes breeding population of piping plover.

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

We have determined that we do not need to prepare an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951) and the Department of the Interior's requirement at 512 DM 2, we understand that we must coordinate with recognized Federal Tribes on a Government-to-Government basis. We believe that certain Tribal lands are essential for the conservation of the piping plover because they support essential populations and habitat. Therefore, we are considering designating critical habitat for the piping plover on Tribal lands. 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 according to section 4(b)(2) of the Act. However, we cannot exclude such areas from critical habitat if doing so will result in the extinction of the species. Due to the short amount of time allowed under the court order for preparing this proposed rule, we have not yet completed consultation with the affected Tribe, but we will do so before making a final decision on critical habitat.

Public Hearings

We have scheduled seven public hearings at the following addresses on the dates indicated.

1. Newberry, MI on July 19, 2000, at Newberry High School Auditorium, 700 Newberry Avenue.
2. Traverse City, MI on July 20, 2000, at Grand Traverse Civic Center, 1213 West Civic Center Drive.
3. Ashland, WI on July 17, 2000, at the Northern Great Lakes Center, 29270 County Highway G.
4. Green Bay, WI on July 18, 2000, at Brown County Central Library, 515 Pine Street.
5. Indiana Dunes National Lakeshore, IN on July 24, 2000, at the Dorothy Buell Memorial Visitors Center, just west of Beverly Shores on Kemil Road between U.S. Highways 12 and 20.
6. Cleveland, OH on July 25, 2000, at The Great Lakes Science Center, 601 Erieside Avenue.
7. Watertown, NY on July 27, 2000, at Dulles State Office Building, 317 Washington Street, 1st Floor Conference Room.

All comments that we receive at these hearings, both verbal and written, will be considered prior to making our decision on critical habitat designation. Copies of the transcripts from the hearings will be available for review by scheduling an appointment during normal business hours at the locations given above (see **ADDRESSES** section).

References Cited

A complete list of all references cited in this proposed rule is available upon request from the Fort Snelling Regional Office (see **ADDRESSES** section).

Author: The primary author of this notice is Laura J. Ragan (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

For the reasons given in the preamble, we propose to amend 50 CFR part 17 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. In § 17.11(h) revise the entry for ''Plover, piping'' under ''BIRDS'' 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						
*	*	*	*	*	*		*
BIRDS							
*	*	*	*	*	*		*
Plover, piping	Charadrius melodus	U.S.A. (Great Lakes, northern Great Plains, Atlantic and Gulf coasts, PR, VI), Canada, Mexico, Bahamas, West Indies.	Great Lakes watershed in States of IL, IN, MI, MN, NY, OH, PA, and WI and Canada (Ont.).	E	211	17.95(b)	NA
*	*	*	*	*	*		*

3. In § 17.95, add critical habitat for the Great Lakes piping plover (*Charadrius melodus*) under paragraph (b) in the same alphabetical order as this species occurs in § 17.11 (h) to read as follows:

§ 17.95 Critical habitat-fish and wildlife.

* * * * *

(b) *Birds.*

* * * * *

PIPING PLOVER (*Charadrius melodus*)—Great Lakes Breeding Population

1. Critical habitat units are depicted for St. Louis County, Minnesota; Douglas, Ashland, Marinette, Oconto, and Manitowoc Counties, Wisconsin; Lake County, Illinois; Porter County, Indiana; Erie and Lake Counties, Ohio; Erie County, Pennsylvania; Oswego and Jefferson Counties, New York; and Alger, Schoolcraft, Luce, Mackinac, Chippewa, Iosco, Presque Isle, Cheboygan, Emmet, Charlevoix, Leelanau, Benzie, Mason, and Muskegon Counties, Michigan, on the maps below.

2. The primary constituent elements required to sustain the Great Lakes breeding population of the piping plover are found on Great Lakes islands and mainland shorelines that support, or have the potential to support, open, sparsely vegetated sandy habitats—sand spits or sand beaches associated with wide, unforested systems of dunes and interdune wetlands. In order for habitat to be physically and biologically suitable for piping plovers, it must have a total shoreline length of at least 0.2 kilometers (km) (0.12 miles (mi)) of gently sloping, sparsely vegetated (less than 50 percent herbaceous and low woody cover) sand beach with a total beach area of at least 2 hectares (5 acres) and a low level of disturbance from human activities and from domestic animals. These appropriately sized sites must also have areas of at least 50–100 meters (m) (165–330 feet (ft)) in length where (1) the beach width is more than 7 m (23 ft), (2) there is cover for nests and chicks, and (3) the distance to the treeline (from the normal high water line to where the forest begins) is more than 50 m (165 ft). Beach width is defined as the distance from the normal high water line to the foredune (a low barrier dune ridge immediately inland from the beach) edge or sand/vegetation boundary in areas where the dune is absent. The beach width may be narrower than 7 m (23 ft) if appropriate sand and cobble areas of at least 7 m (23 ft) exist between the dune and the treeline. Protective cover for nests and chicks consists of small patches of herbaceous vegetation, cobble (stones larger than 1 cm (0.39 inches (in)) diameter), gravel (stones smaller than 1 cm (0.39 in) diameter), or debris such as driftwood, wrack, root masses, or dead shrubs.

3. Critical habitat does not include existing developed sites consisting of buildings, marinas, paved areas, boat ramps, and similar structures.

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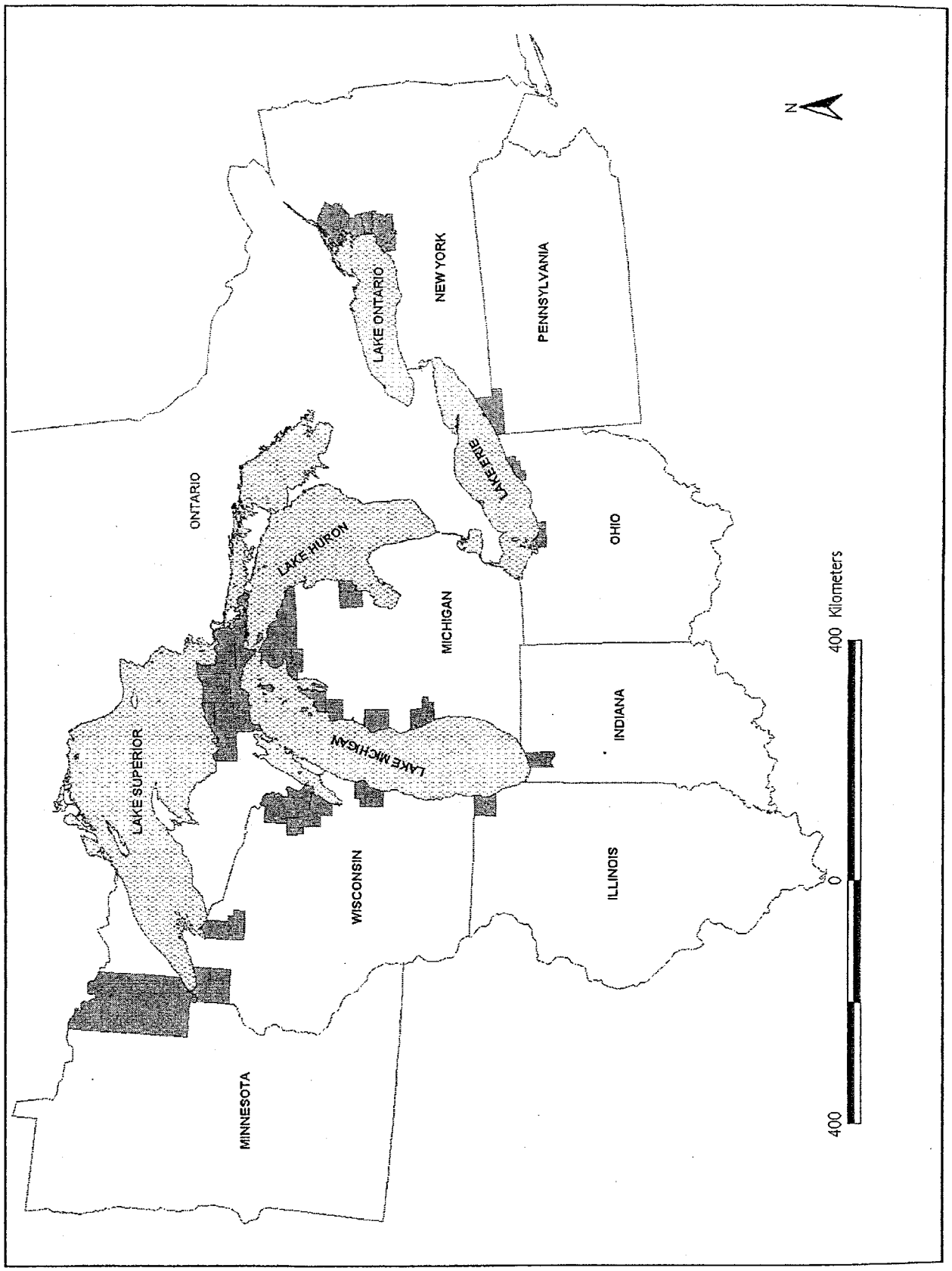
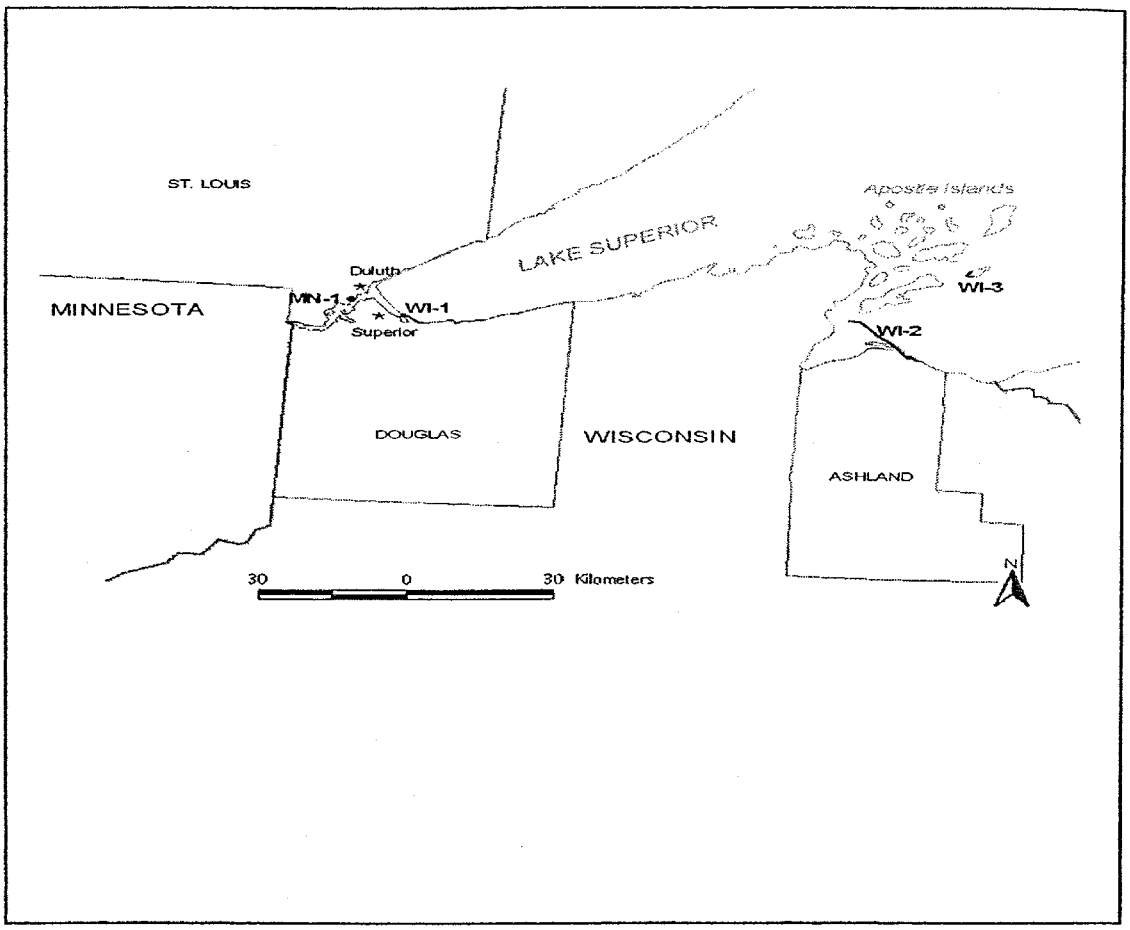
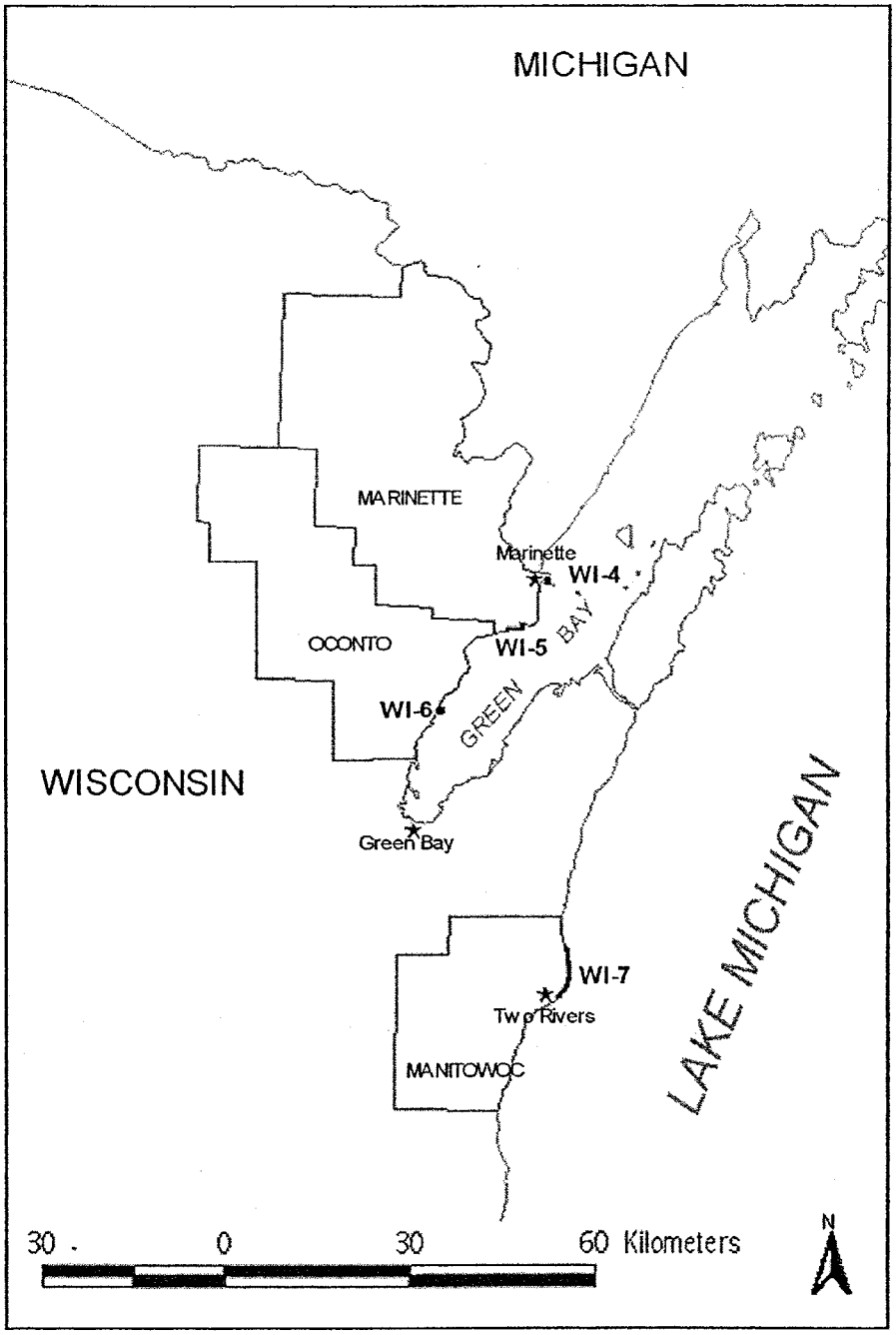

N
LAKE ONTARIO
NEW YORK
PENNSYLVANIA
LAKE ERIE
ONTARIO
LAKE HURON
OHIO
MICHIGAN
INDIANA
LAKE MICHIGAN
LAKE SUPERIOR
WISCONSIN
ILLINOIS
MINNESOTA
400 Kilometers
400
0

Proposed Critical Habitat Units in Minnesota and Northern Wisconsin

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MARINETTE
Marinette
WI-4
OCONTO
WI-5
GREEN BAY
WI-6
WISCONSIN
Green Bay
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30 0 30 60 Kilometers
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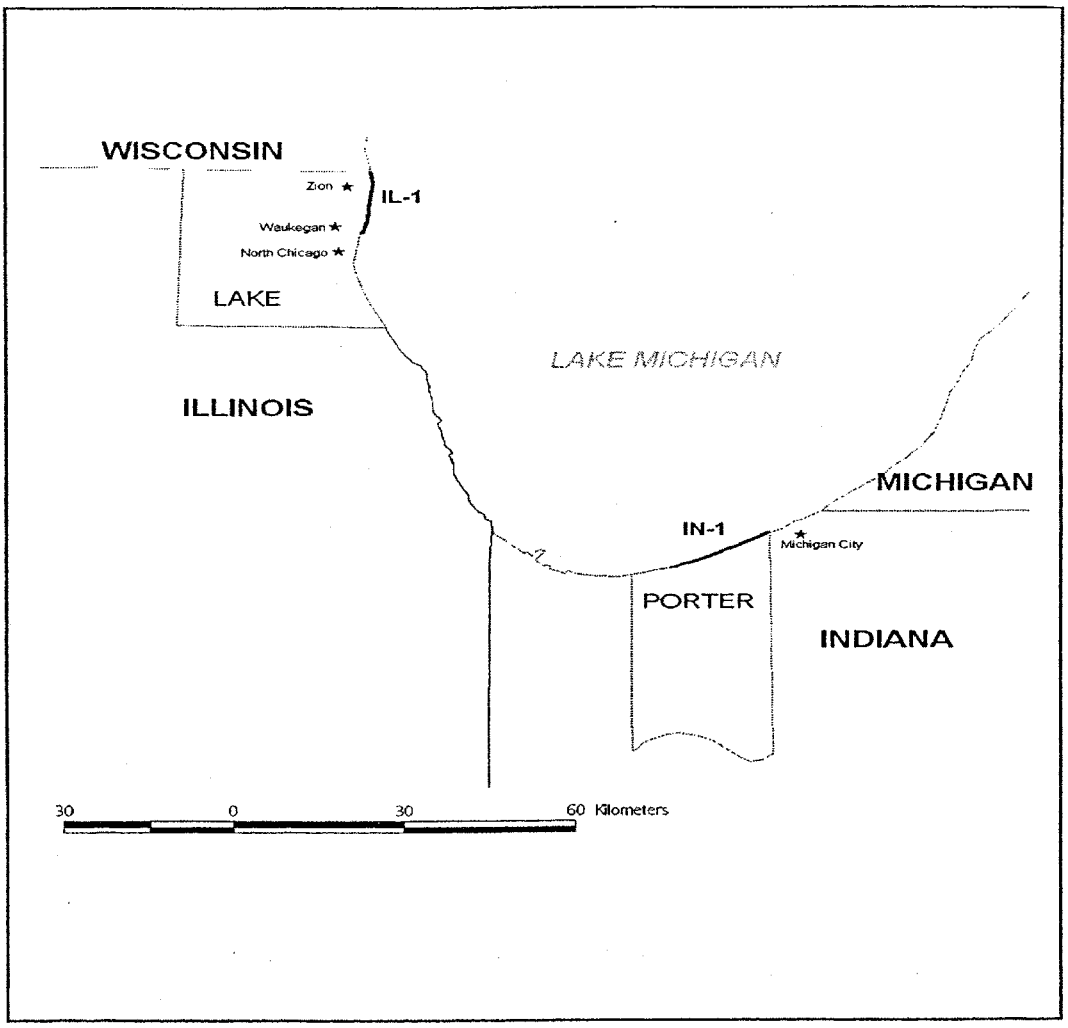
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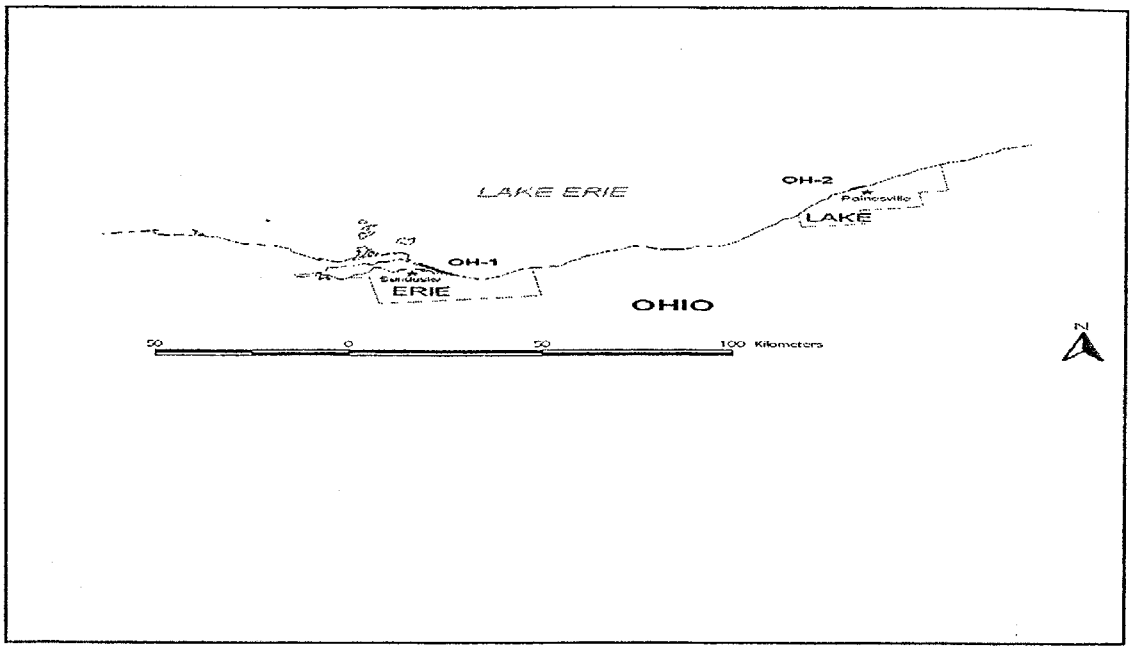
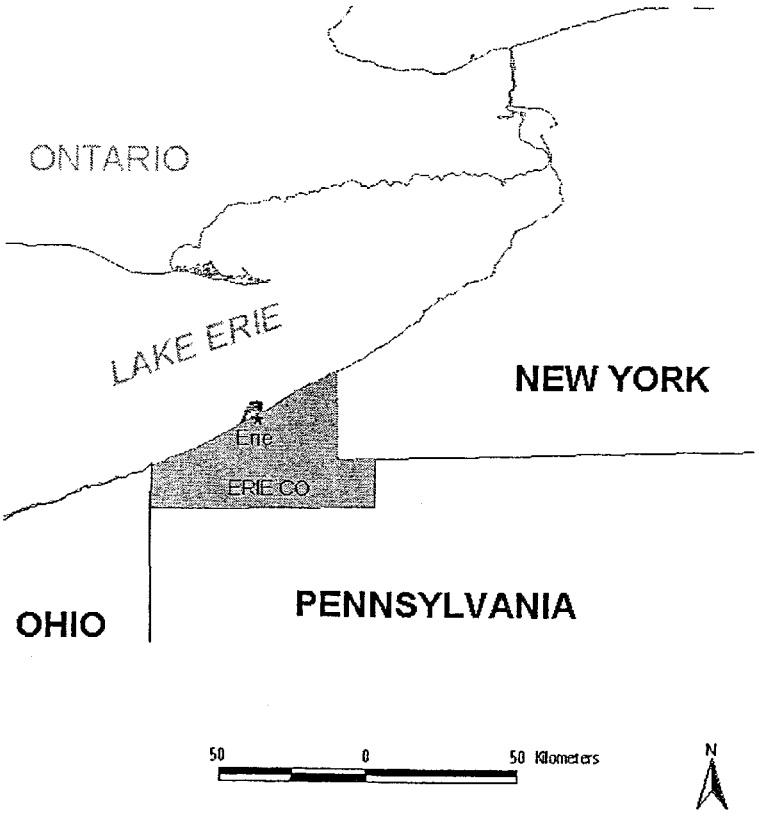
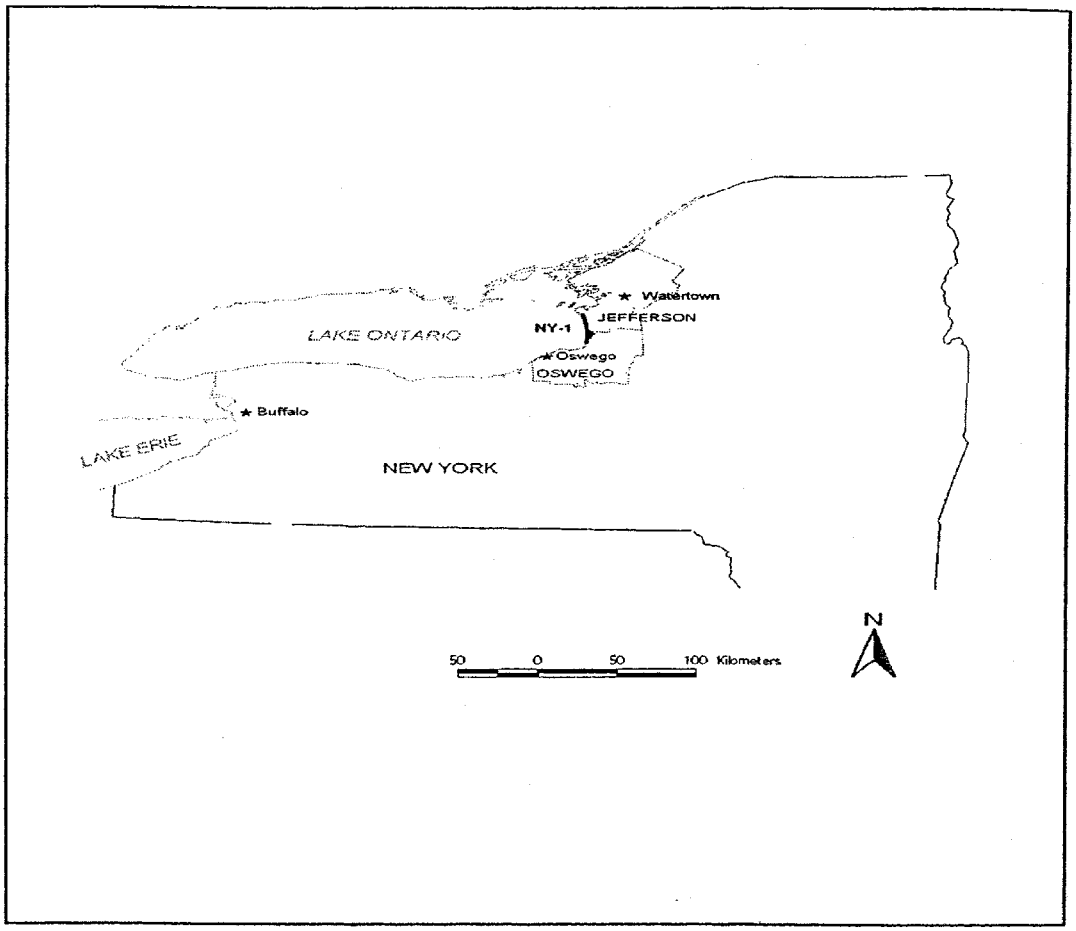
Zion
IL-1
Waukegan
North Chicago
LAKE
LAKE MICHIGAN
ILLINOIS
MICHIGAN
IN-1
Michigan City
PORTER
INDIANA
30
0
30
60 Kilometers

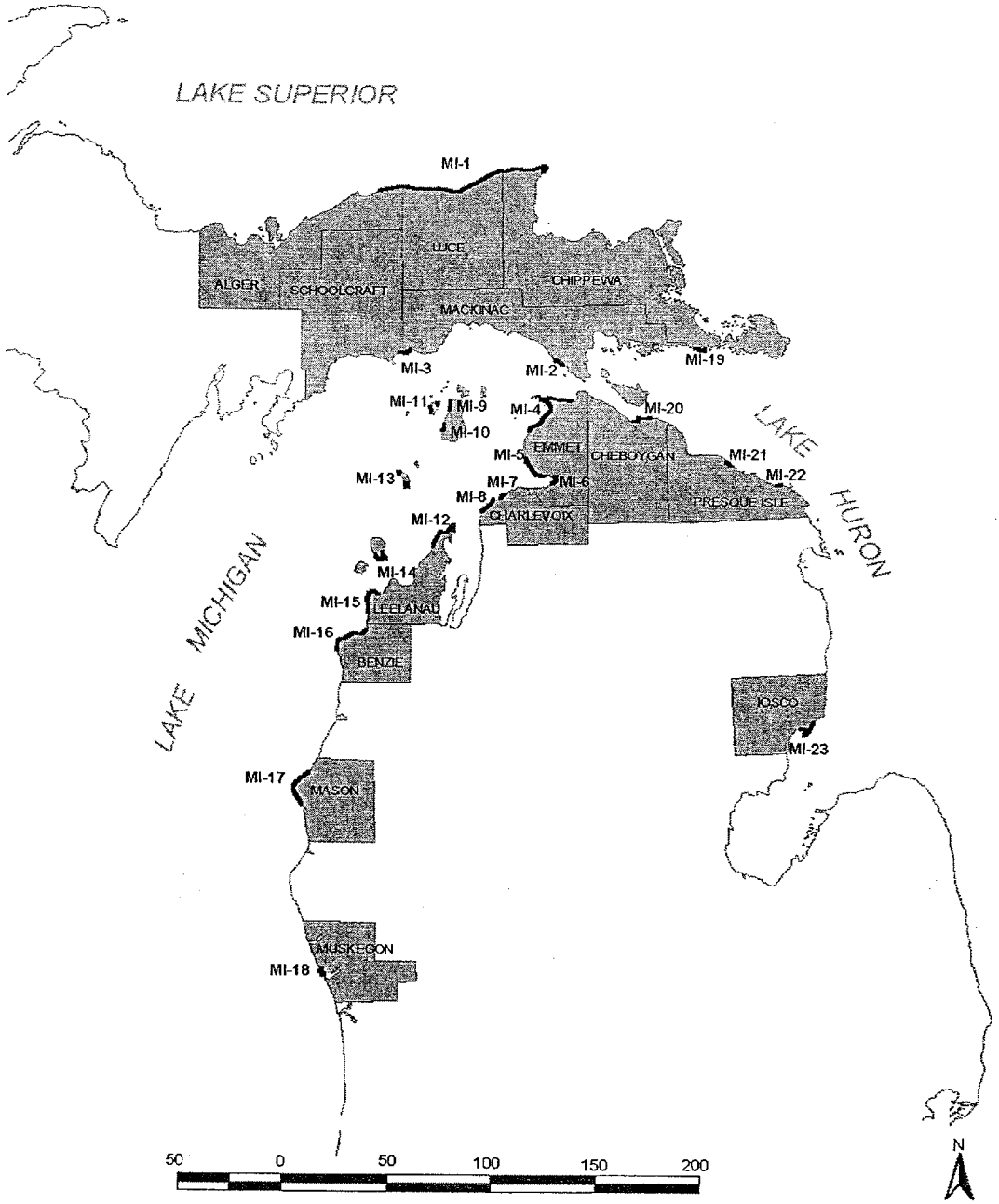
Proposed Critical Habitat Units in Ohio




ONTARIO
LAKE ERIE
NEW YORK
Erie
ERIE CO.
OHIO
PENNSYLVANIA
50
0
50 Kilometers
N

Proposed Critical Habitat Units in New York





Dated: June 28, 2000.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 00–16815 Filed 6–30–00; 9:00 am]

BILLING CODE 4310–55–C

Federal Register

Thursday,
July 6, 2000

Part IV

Department of Transportation

Federal Railroad Administration

49 CFR 260

Railroad Rehabilitation and Improvement Financing Program; Revisions; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 260

[Docket No. FRA 1999–5663]

RIN 2130–AB26

Railroad Rehabilitation and Improvement Financing Program; Revisions

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

ACTION: Final rule.

SUMMARY: The Department of Transportation (DOT) is issuing a final rule which implements the Railroad Rehabilitation and Improvement Financing Program (RRIF) 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 direct loans and loan guarantees made under this program cannot exceed $3.5 billion at any one time and not less than $1 billion is to be available solely for projects benefitting freight railroads other than Class I carriers.

EFFECTIVE DATE: The final rule is effective September 5, 2000.

FOR FURTHER INFORMATION CONTACT: JoAnne M. McGowan, Chief of Freight Programs Division, RDV–12, Office of Passenger and Freight Services, FRA, 1120 Vermont Avenue, NW, MailStop 20, Washington, D.C. 20590 (202–493–6379), or Joseph R. Pomponio, Senior Attorney, Office of Chief Counsel, FRA, 1120 Vermont Avenue, NW, MailStop 10, Washington, D.C. 20590 (202–493–6065).

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users can access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded using a modem and suitable communication software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

Prior to the enactment of the Transportation Equity Act of the 21st Century (''TEA 21''), Pub. L. No. 105–178 (June 9, 1998), Title V of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (the ''Act''), 45 U.S.C. 821 *et seq.*, authorized FRA to provide railroad financial assistance through the purchase of preference shares (45 U.S.C. 825), and the issuance of loan guarantees (45 U.S.C. 831). The FRA regulations implementing the preference share program were eliminated on February 9, 1996, due to the fact that the authorization for the program expired (28 FR 4937). The FRA regulations implementing the loan guarantee provisions of Title V of the Act are contained in 49 C.F.R. Part 260.

Section 7203 of TEA 21 replaces the existing Title V financing programs. This final rule strikes the language in existing part 260 and replaces it with new procedures and requirements to cover applications of financial assistance in the form of direct loans and loan guarantees consistent with the changes made to Title V of the Act by section 7203 of TEA–21.

The revised program is referred to in TEA 21 as the Railroad Rehabilitation and Improvement Financing Program (''RRIF Program''). The Secretary has delegated his authority under the RRIF Program to the FRA Administrator.

NPRM

The FRA published a notice of proposed rulemaking (NPRM) on May 20, 1999, in the **Federal Register** (64 FR 27488). Comments were filed by 92 commenters. FRA is now issuing this final rule concerning administration of the RRIF Program. This rule reflects the FRA's consideration of the comments filed in response to the NPRM.

Discussion of Rulemaking Text

The following discussion summarizes the comments submitted to the FRA by commenters on the NPRM, notes where and why changes have been made to the rule, and, where relevant, states why particular recommendations or suggestions have not been incorporated into the following regulations. Paragraph references are as designated in the NPRM.

Discussion of Comments and Responses by Section

Section 260.9 Loan terms. Sixty-one commenters urged that the interest rate to be charged on direct loans made under the RRIF Program be set at the cost of money to the Government for debt obligations with terms equal to the term of the loan.

FRA Response: Although FRA anticipated that direct loans would be assessed interest rates equal to the cost of money to the Government, as determined by the rate on Treasury securities of a similar term, the proposed regulations did not so specify. In order to clarify FRA's intent in this regard, section 260.9 has been changed to specify the interest rate to be charged.

Section 260.23(o) Lender of last resort. Seventy-two commenters suggested that, as enacted by Congress, the RRIF Program was not intended to provide financial assistance only as a lender of last resort. Commenters noted that although in certain circumstances loans may be available from the private sector, the terms on which such loans are offered are prohibitive. Railroad assets typically have long economic lives (up to 30 years) while private sector loans, when available, offer no longer than a 7 year repayment period. Therefore, private sector financing of most railroad assets is not economically viable.

Also notably, comments submitted by four members of the Committee on Transportation and Infrastructure, House of Representatives, including: Bud Shuster, Chairman, James L. Oberstar, Ranking Member, Thomas Petri, Chairman, Ground Transportation Subcommittee, and Nick J. Rahall, II, Ranking Member, Ground Transportation Subcommittee, suggest that TEA–21 does not require that the RRIF Program be a lender of last resort and ask that this requirement be deleted. Further, those comments indicate that the ''central purpose of the program is to facilitate rail and rail-intermodal infrastructure improvements that will confer public benefits beyond simple considerations of commercial lending, and may not be able to attract sufficient private capital.''

FRA Response: Consistent with the intent of Congress FRA intends to implement this program in a way that will meet the needs of the rail industry for long term financing which is not available from the private sector. While FRA need not be a lender of last resort, it does not intend to replace private funding sources already available to the rail industry. Therefore, in order to

establish that private funding on terms necessary to the viability of the applicant's project is not available, FRA will require that railroad applicants provide a letter from a commercial lender denying funding for the project. Section 260.23(o) has been amended accordingly.

Sections 260.23, 25, & 29. Information to be provided with applications. Sixty commenters suggested that the amount of information required to be submitted with applications for assistance under the RRIF Program will prove to be an undue burden on small businesses. Commenters have suggested that FRA should limit the amount of information required and eliminate the requirement that financial statements be audited.

FRA Response: In an effort to reduce the burden on applicants while still assuring that adequate information is available to accurately evaluate each loan application and proposed project, FRA has amended sections 260.23(h) and 260.25(b)(1) of the regulation to provide that audited financial statements will only be required if they are available. Further, FRA has amended sections 260.25(b) and (c), and eliminated section 260.29.

Section 260.31 Investigation charge. Sixty commenters have suggested that the investigation charge set by FRA at ½% as permitted by statute is too high and may prove to be a burden on smaller applicants. Commenters suggested that the investigation charge be assessed based on actual cost to FRA to process each application.

FRA Response: In order to avoid any unnecessary burden of future applicants FRA will estimate the processing costs and advise applicant at the pre-application meeting of the amount of the charge. That charge will still be payable in two installments, ½ at the time the application is submitted and the remaining ½ within 60 days thereafter. Section 260.11 has been amended accordingly. Further, in order to provide applicant more flexibility in controlling the total administrative costs of each application, FRA has included a new Section 260.29, which provides applicants with the option of contracting with a third party financial consultant, with FRA approval, to prepare a financial evaluation of the project and the applicant. Cost savings to FRA as a result of receiving such an evaluation will be reflected as reductions to the investigation charge.

General Comments

Fifty-six commenters asked that the limitation imposed by section 260.53, which provides that the Administrator will only guarantee up to 80% of the total obligation, be deleted so that 100% of an obligation can be guaranteed.

FRA Response: The 80% limitation is imposed on all Federal loan guarantees by the Office of Management and Budget, as iterated in circular A–129. The FRA cannot guarantee more than 80%.

Sixty-four commenters requested that the calculation of the Credit Risk Premium be simplified so as to be easily understood.

FRA Response: The calculation of the Credit Risk Premium is based on a process which evaluates many indicators of the financial viability of the applicant. In order to accurately assess the risk of default associated with each loan or loan guarantee FRA must consider all aspects of the applicant's organization and business. Therefore, this estimation process necessarily is complex. However, FRA will provide potential applicants with estimates of the size of the Credit Risk Premium that may be required based on discussions at the preapplication meeting provided under section 260.19.

One commenter requested that FRA accept a note from an applicant as payment of the Credit Risk Premium in lieu of a cash payment.

FRA Response: Based on FRA's interpretation of the statutory language this option is not permitted. Section 502(e)(3) provides that ''the credit risk premium under this section shall be paid to the Secretary before the disbursement of loan amounts''. Acceptance of a note would not constitute payment.

Two commenters suggested that priority consideration be given to projects that would avoid the abandonment of a rail line; one commenter asked for priority for projects benefitting railroad employees, and one commenter requested that, FRA provide priority for a project included in a state transportation plan.

FRA Response: The types of projects identified for priority consideration in section 260.7 reflect the areas of priority detailed by the enabling legislation. FRA has elected not to add to these criteria at this time.

Two commenters asked that the cost of a right-of-way be made an eligible cost of the project that receives financial assistance under the RRIF Program.

FRA Response: The statutory language does not clearly state whether the cost of right-of-way acquisition may be considered as part of the project. While it is possible that in certain circumstances such costs could be considered eligible cost of the project, it is also possible that in other situations they would not. A determination regarding whether the costs of rights-of-way may be considered eligible costs will be made in each case after a careful review of the circumstances.

Three commenters suggested that the collection of a Credit Risk Premium is too heavy a burden to be placed on applicants and asked that FRA not charge a Credit Risk Premium.

FRA Response: Before FRA can disburse any direct loan or loan guarantee it must set aside such amounts as are necessary to offset anticipated costs to the Federal government of making such loans and guarantees. Under this program such funds may come from funds appropriated for this purpose by Congress, a Credit Risk Premium, or any combination of appropriated funds and Credit Risk Premium. Where no Congressional appropriation exists, and there is none for RRIF at this time, FRA cannot approve a loan or loan guarantee without collecting a Credit Risk Premium.

One commenter requested that FRA provide financial assistance under this program for terms of up to 30 years.

FRA Response: Section 502(g)(1) of the Act requires that the Administrator (as the Secretary's designee), shall not make a loan or a loan guarantee unless the Administrator has made a finding that repayment of the obligation is required to be made in a term of not more than 25 years.

One commenter questioned our consideration of the ''size'' of an applicant in determining the credit risk, and suggested that no application should be denied solely because of the applicant's size.

FRA Response: FRA recognizes that the RRIF Program is intended, in part, to provide financial assistance to small railroads and it will not use a small applicant's size as a basis to deny financial assistance. However, the size of the applicant is a significant factor which must be considered along with all other factors outlined in determining the credit risk of providing financial assistance. Size would also be important if the applicant were large and the amount of assistance sought by the applicant together with all other assistance already provided to large applicants would result in less than $1 billion being available to small railroads.

One commenter requested that the term ''common carrier'' be removed from the definition of a railroad provided in section 260.3(r), in order to permit railroad shortlines providing only contract carrier services to a limited number of small shippers to be

eligible for financial assistance under the RRIF Program.

FRA Response: Section 7203 of TEA–21, which established the RRIF Program by amending Title V of the Act, does not define ''railroad.'' However, section 102 of the Act, as amended, provides that ''as used in this Act'' * * * ''(7) 'railroad' means rail carrier subject to part A of subtitle IV of title 49, United States Code.'' FRA has no discretion to expand the definition provided by the Act but clarify the definition by incorporating the statutory definition.

One commenter asked that the term ''equipment'', as used in section 260.5, ''Eligible purposes,'' be defined to clarify that it does include railroad cars and locomotives.

FRA Response: The term ''equipment'' was not defined in the proposed regulations because it includes a variety of items which are used in the operation of a railroad. While rail cars and locomotives are certainly railroad equipment, further determinations regarding what will be considered ''equipment'' will be made as necessary.

One commentor suggests that the inclusion of all loans and loan guarantees into one cohort each fiscal year is inappropriate because the default of any obligation within that cohort will reduce the likelihood that other obligations will receive a rebate of their credit risk premium.

FRA Response: A default of any obligation in a cohort will produce losses that must be covered by the credit risk premiums collected from other obligations within that cohort. The fewer obligations a cohort contains, the greater the likelihood that a default will consume all the credit risk premiums and that none will remain to be returned to the borrowers. Similarly, a cohort containing more obligations is more likely to have sufficient credit risk premiums to cover the losses and still be able to provide a rebate. Therefore, FRA has determined that it will not necessarily limit cohorts to a one year period. Rather each cohort will remain open until FRA has determined that it contains an adequate pool of obligations, based on both size of the obligations and the total credit risk premiums collected, to increase the possibility that a rebate will be available upon the repayment of all the obligations contained in the cohort. Also, to that end separate cohorts will be established for direct loans and loan guarantees. Section 260.15 has been amended accordingly.

Regulatory Impact

E.O. 12866, SBREFA and DOT Regulatory Policies and Procedures

This final rule has been evaluated in accordance with existing regulatory policies and is considered to be economically significant within the meaning of Executive Order 12866 and is a significant rule under DOT regulatory policies and procedures (44 Fed. Reg., February 26, 1979). Additionally, this is a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)) because the rule may have an annual effect on the economy of $100 million or more.

Executive Order 12866 requires that for all economically significant regulations, agencies provide an assessment, including the underlying analysis, of the costs and benefits anticipated from the regulatory action. In addition, the agency must analyze the costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulations. While the agency has not produced a quantified analysis of this rule, DOT has produced the following qualitative assessment:

Potential Benefits. The financing made available through this final rule may provide environmental and safety benefits, and avoid increased highway maintenance costs. Of the $3.5 billion made available for direct loans and loan guarantees, $1 billion is reserved for projects benefitting small railroads. Shortline and regional railroads are one of the transportation modes that connect rural America and small communities to the national railroad system. A recent survey by the American Association of State Highway and Transportation Officials has found that 200 small railroads need more than $2 billion in external financing to upgrade their track to safely accommodate the 286,000 pound cars that major carriers are now using. Shortline and regional railroads that cannot safely handle these heavier cars will lose traffic critical to their viability and continued operation. If these railroads are abandoned, the traffic will be moved by less energy efficient trucks. A 1991 FRA study entitled Rail vs. Truck Fuel Efficiency found that on routes typically served by shortline railroads, trains were 5.93 to 9 times more energy efficient than trucks.

Additional truck traffic may increase adverse health and environmental effects. It is unclear how significant the incremental changes in health and environmental effects will be because the agency has not estimated the incremental pollution reductions that may occur from this rule. In addition, some of the reductions that do occur are likely to be in sparsely populated areas.

This rule may also provide safety benefits by reducing track-related accidents. From 1986 through 1991, small railroads experienced over 3 track-related accidents for every million miles operated. During the same period, major railroads had only 1.45 track-related accidents for every million miles operated. Since 1991, the situation has worsened. From 1992 through 1996, shortline and regional railroads experienced more than 5 track-related accidents per million miles operated while major railroads had only 1.28. On the other hand, it is not clear that trucking the traffic carried by shortline and regional railroads would be less safe.

Potential Costs. There are administrative costs associated with this rule. Prospective borrowers will be required to file an application containing certain financial information. This information collection has been approved by the Office of Management and Budget. The approved control number is 2130–0548. The estimated annual burden hours are 5,881 hours and the annual costs are $543,866. The total estimated administrative costs to the Federal government are $325,000.

Default costs also may occur as a result of this rule. If the cost of borrowers' defaults exceeds the credit risk premiums collected there will be a cost to the federal government.

There are also opportunity costs associated with this rule, since it may reallocate finite resources to railroads that necessarily would have been spent elsewhere absent this rule. FRA has observed that the private sector will not provide funds to many railroads on terms that will support long term improvement projects. Under the assumption that private markets are working properly, this rule will displace more valuable investments and will result in costs to society. Because the private credit market generally allocates resources (including credit) efficiently to meet societal demand, only under certain circumstances (see examples below) may government intervention in the credit market increase societal benefits.

If one assumes that the private sector is not providing credit to railroads because an economic market failure exists, then government intervention may improve the outcome. Reasons for economic market failure of the credit market include information failures, externalities, economic disequilibrium, failure of competition and incomplete markets. Under these circumstances,

government intervention may generate positive net societal benefits through a combination of private and social benefits, taking into account the factors identified in the discussion of potential benefits above.

Cost-Benefit Comparison. Under Executive Order 12866, agencies may propose or adopt a regulation only upon a reasoned determination that the benefits of the regulation justify the costs. Based on numerous project benefit-cost analyses completed by State Departments of Transportation, DOT believes that the rule can lead to carefully selected projects that will generate benefits sufficient to outweigh the costs of this rule.

Future Analysis of this Program. FRA will periodically review the public benefits and costs of the RRIF program to ensure that there is a net societal benefit from this program. FRA recognizes that only under certain circumstances will government intervention in the credit market generate net societal benefits. Therefore, FRA will the reason for the failure of the market to provide credit to rail projects, and will assess the private and social costs and benefits of these projects to determine if they are likely to result in net societal benefits.

The Office of Management and Budget Circular A–94 establishes guidelines for analysis of the expected benefits and costs to society of Federal programs. The purpose of A–94 is to promote efficient resource allocation through well-informed decision-making by the Federal Government.

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. FRA has conducted a regulatory flexibility assessment of this final rule and FRA certifies that it does not have a significant impact on a substantial number of small entities.

It is not likely that small governmental entities will seek financial assistance under the RRIF Program. In response to a public notice on the enactment of the program, only large metropolitan areas, like the City of Indianapolis and the Memphis and Shelby County Port Commission, indicated an interest in RRIF financing. The cost to governmental entities of applying for the program would be minimal since borrowers will normally have available the information needed to prepare applications for funding.

In addition to small governmental entities, the small entities directly affected by this rule are class III railroads. The cost to small railroads will be minimal since the information needed to complete applications will normally be available. Moreover, participation in the RRIF Program is strictly voluntary. Therefore, FRA has concluded that there are no substantial economic impacts for small units of government, business, or other organizations.

Paperwork Reduction Act

This information collection has been approved by the Office of Management and Budget. The approved control number is 2130–0548. FRA cannot impose a penalty on persons for violating information collection requirements which do not display a current OMB control number.

Environmental Impact

FRA has evaluated this regulation in accordance with its procedures for ensuring full consideration of the potential environmental impacts of FRA actions, as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related directives. This regulation meets the criteria that establish this as a non-major action for environmental purposes.

Federalism Implications

This rule will not have a substantial effect on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, input by state and local officials, under Executive Orders 13132, is not warranted.

Compliance With the Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) each federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal Regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Sec. 201. Section 202 of the Unfunded Mandates Reform Act further requires that ''before promulgating any general notice of proposed rulemaking that is likely to result in promulgation of any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement * * *'' detailing the effect on State, local and tribal governments and the private sector. The final rules issued today will not result in the expenditure, in the aggregate, of $100,000,000 or more in any one year, and thus preparation of a statement was not required.

List of Subjects in 49 CFR Part 260

Loan programs—Transportation; Railroads.

The Final Rule

In consideration of the foregoing, Part 260 of Title 49, Code of Federal Regulations, is revised to read as follows:

PART 260—REGULATIONS GOVERNING LOANS AND LOAN GUARANTEES UNDER THE RAILROAD REHABILITATION AND IMPROVEMENT FINANCING PROGRAM

Subpart A—Overview

Sec.
260.1 Program authority.
260.3 Definitions.
260.5 Eligible purposes.
260.7 Priority consideration.
260.9 Loan terms.
260.11 Investigation charge.
260.13 Credit reform.
260.15 Credit risk premium.

Subpart B—FRA Policies and Procedures for Evaluating Applications for Financial Assistance

260.17 Credit risk premium analysis.
260.19 Preapplication meeting.

Subpart C—Applications for Financial Assistance

260.21 Eligibility.
260.23 Form and content of application generally.
260.25 Additional information for applicants not having a credit rating.
260.27 Additional information for loan guarantees.
260.29 Third party consultants.
260.31 Execution and filing of application.
260.33 Information requests.
260.35 Environmental assessment.

Subpart D—Standards for Maintenance of Facilities Involved in the Project

260.37 Applicability.
260.39 Maintenance standards.
260.41 Inspection and reporting.
260.43 Impact on other laws.

Subpart E—Procedures To Be Followed in the Event of Default

260.45 Events of default for guaranteed loans.
260.47 Events of default for direct loans.
260.49 Avoiding defaults.

Subpart F—Loan Guarantees—Lenders

260.51 Conditions of guarantees.
260.53 Lender's functions and responsibilities.

260.55 Lender's loan servicing.

Authority: 45 U.S.C. 821, 822, 823; 49 CFR 1.49.

Subpart A—Overview

§ 260.1 Program authority.

Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 821 *et seq.*, authorizes the Secretary of Transportation 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. The Secretary's authority has been delegated to the Administrator of the Federal Railroad Administration, an agency of the Department of Transportation.

§ 260.3 Definitions.

As used in this part—

(a) *Act* means the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, 45 U.S.C. 821 *et seq.*

(b) *Administrator* means the Federal Railroad Administrator, or his or her representative.

(c) *Applicant* means any State or local government, government sponsored authority or corporation, railroad, or group of two or more entities, at least one of which is a railroad, participating in a joint venture, that submits an application to the Administrator for a direct loan or the guarantee of an existing obligation under which it is an obligor or for a commitment to guarantee a new obligation.

(d) *Borrower* means an Applicant that has been approved for, and has received, financial assistance under this part.

(e) *Credit risk premium* means that portion of the total subsidy cost to the Government of a direct loan or loan guarantee that is not covered by Federal appropriations and which must be paid by Applicant or its non-Federal infrastructure partner before that direct loan can be disbursed or loan guarantee can be issued.

(f) *Direct loan* means a disbursement of funds by the Government to a non-federal borrower under a contract that requires the repayment of such funds.

(g) *FRA* means the Federal Railroad Administration.

(h) *Financial assistance* means a direct loan, or a guarantee of a new loan issued under this part.

(i) *Holder* means the current owner of an obligation or the entity retained by the owner to service and collect an obligation which is guaranteed under the provisions of this part.

(j) *Including* means including but not limited to.

(k) *Infrastructure partner* means any non-Federal source of the Credit Risk Premium which must be paid to the Administrator in lieu of, or in combination with, an appropriation in connection with financial assistance provided under this part.

(l) *Intermodal* means of or relating to the connection between rail service and other modes of transportation, including all parts of facilities at which such connection is made.

(m) *Lender* means the non-Federal entity making a loan to an Applicant for which a loan guarantee under this part is sought.

(n) *Loan guarantee* means any guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal Lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(o) *Obligation* means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation.

(p) *Obligor* means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor.

(q) *Project* means the purpose for which financial assistance is requested.

(r) *Railroad* means a rail carrier subject to part A of subtitle IV of title 49, United States Code.

(s) *Subsidy cost of a direct loan* means the net present value, at the time when the direct loan is disbursed, of the following estimated cash flows:

(1) Loan disbursements;

(2) Repayments of principal; and

(3) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries; including the effects of changes in loan terms resulting from the exercise by the borrower of an option included in the loan contract.

(t) *Subsidy cost of a loan guarantee* means the net present value, at the time when the guaranteed loan is disbursed, of the following estimated cash flows:

(1) Payments by the Government to cover defaults, delinquencies, interest subsidies, or other payments; and

(2) The payments to the Government including origination and other fees, penalties and recoveries.

§ 260.5 Eligible purposes.

(a) Financial assistance under this part is available solely to:

(1) Acquire, improve, or rehabilitate intermodal or rail freight or passenger equipment or facilities, including track, components of track, bridges, yards, buildings, and shops;

(2) Refinance outstanding debt incurred for purposes described in paragraph (a)(1) of this section; or

(3) Develop or establish new intermodal or railroad facilities.

(b) Financial assistance under this part cannot be used for railroad operating expenses.

§ 260.7 Priority consideration.

When evaluating applications, the Administrator will give priority consideration (but not necessarily in the following order) to projects that:

(a) Enhance public safety;

(b) Enhance the environment;

(c) Promote economic development;

(d) Enable United States companies to be more competitive in international markets;

(e) Are endorsed by the plans prepared under section 135 of title 23, United States Code, by the State or States in which they are located; or

(f) Preserve or enhance rail or intermodal service to small communities or rural areas.

§ 260.9 Loan terms.

The maximum repayment period for direct loans and guaranteed loans under this part is 25 years from the date of execution. The interest rate on direct loans will be equal to the rate on Treasury securities of a similar term. In general, the financial assistance provided will be required to be repaid prior to the end of the useful life of the project it is used to fund.

§ 260.11 Investigation charge.

(a) Applicants for financial assistance under this part may be required to pay an investigation charge of up to one-half of one percent of the principal amount of the direct loan or portion of the loan to be guaranteed.

(b) When an investigation charge is assessed, one-half of the investigation charge shall be paid by Applicant at the time a formal application is submitted to FRA.

(c) Within 60 days after the date of filing of the application, Applicant shall pay to the Administrator the balance of the investigation charge.

§ 260.13 Credit reform.

The Federal Credit Reform Act of 1990, 2 U.S.C. 661, requires Federal agencies to set aside the subsidy cost of new credit assistance provided in the form of direct loans or loan guarantees. The subsidy cost will be the estimated

long term cost to the Government of the loan or loan guarantee. The subsidy cost associated with each direct loan or loan guarantee, which the Administrator must set aside, may be funded by Federal appropriations, direct payment of a Credit Risk Premium by the Applicant or a non-Federal infrastructure partner on behalf of the Applicant, or any combination thereof.

§ 260.15 Credit risk premium.

(a) Where available Federal appropriations are inadequate to cover the subsidy cost, a non-Federal infrastructure partner may pay to the Administrator a Credit Risk Premium adequate to cover that portion of the subsidy cost not covered by Federal appropriations. Where there is no Federal appropriation, the Credit Risk Premium must cover the entire subsidy cost.

(b) The amount of the Credit Risk Premium required for each direct loan or loan guarantee, if any, shall be established by the Administrator. The Credit Risk Premium shall be determined based on the credit risk and anticipated recovery in the event of default, including the recovery of collateral.

(c) The Credit Risk Premium must be paid before the disbursement of a direct or guaranteed loan. Where the borrower draws down the direct or guaranteed loan in several increments, the borrower may pay a portion of the total Credit Risk Premium for each increment equal to the proportion of that increment to the total amount of the direct or guaranteed loan.

(d) Each direct loan and loan guarantee made by the Administrator will be included in one cohort of direct loans or one cohort of loan guarantees, respectively, made during that same fiscal year, or longer period, as may be determined by the Administrator. When all obligations in a cohort have been satisfied or liquidated, the amount of Credit Risk Premiums, paid by applicants or infrastructure partners, remaining in the cohort, after deductions made to mitigate losses from any loan or loan guarantee in the cohort, together with interest accrued thereon, will be repaid on a pro rata basis to each original payor of a Credit Risk Premium for any obligation which was fully satisfied. If the Administrator's estimate of the default risk cost of each loan is accurate, the aggregate of Credit Risk Premiums associated with each cohort of loans will fully offset all losses in the cohort and none will remain to be returned to the payees.

Subpart B—FRA Policies And Procedures For Evaluating Applications For Financial Assistance

§ 260.17 Credit risk premium analysis.

(a) When Federal appropriations are not available to cover the total subsidy cost, the Administrator will determine the Credit Risk Premium necessary for each direct loan or loan guarantee by estimating the credit risk and the potential recovery in the event of a default of each project evaluating the factors described in paragraphs (b) and (c) of this section.

(b) Establishing the credit risk.

(1) Where an Applicant has received a recent credit rating from one or more nationally recognized rating agencies, that rating will be used to estimate the credit risk.

(2) Where an Applicant has not received a credit rating from a credit rating agency, the Administrator will determine the credit risk based on an evaluation of the following factors:

(i) Business risk, based on Applicant's:

(A) Industry outlook;

(B) Market position;

(C) Management and financial policies;

(D) Capital expenditures; and

(E) Operating efficiency.

(ii) Financial risk, based on Applicant?s past and projected:

(A) Profitability;

(B) Liquidity;

(C) Financial strength;

(D) Size; and

(E) Level of capital expenditures; and

(iii) Project risk, based on the proposed project's:

(A) Potential for improving revenues, profitability and cash flow from operations; and

(B) Reliance on third parties for success.

(c) The potential recovery in the event of a default will be based on:

(1) The nature of the Applicant's assets; and

(2) Liquidation value of the collateral offered, including the terms and conditions of the lien securing the collateral.

§ 260.19 Preapplication meeting.

Potential Applicants may request a meeting with the FRA Associate Administrator for Railroad Development to discuss the nature of the project being considered. Applicants must be prepared to provide at least the following information:

(a) Applicant's name, address, and contact person;

(b) Name of the proposed infrastructure partner(s), if any, including the identification of potential amounts of funding from each;

(c) Amount of the direct loan or loan guarantee request, and a description of the technical aspects of the project including a map of the existing railroad lines with the location of the project indicated;

(d) Brief description and estimate of the economic impact, including future demand for service, improvements that can be achieved, the project's relation to the priorities listed in § 260.7, along with any feasibility, market or other studies that may have been done as attachments;

(e) Amount of Applicant's equity and a description of collateral offered, with estimated values, including the basis of such, to be offered as security for the loan;

(f) If applicable, the names and addresses of the Applicant's parent, affiliates, and subsidiary corporations, if any, and a description of the ownership relationship and the level of guarantee, if any, to be offered;

(g) For existing companies, a current balance sheet and an income statement not more than 90 days old and financial statements for the borrower and any parent, affiliates, and subsidiaries for at least the four most recent years; and

(h) Information relevant to the potential environmental impacts of the project in the context of applicable Federal law.

Subpart C—Applications for Financial Assistance

§ 260.21 Eligibility.

The Administrator may make a direct loan to an Applicant, or guarantee the payment of the principal balance and any interest of an obligation of an Applicant prior to, on, or after the date of execution or the date of disbursement of such obligation, if the proceeds of such direct loan or obligation shall be, or have been, used by the Applicant for the eligible purposes listed in § 260.5(a)(1), (2), and (3).

§ 260.23 Form and content of application generally.

Each application shall include, in the order indicated and identified by applicable paragraph numbers and letters corresponding to those used in this section, the following information:

(a) Full and correct name and principal business address of the Applicant;

(b) Date of Applicant's incorporation, or organization if not a corporation, and name of the government, State or territory under the laws of which it was incorporated or organized. If Applicant

is a partnership, association, or other form of organization other than a corporation, a full description of the organization should be furnished;

(c) Name, title, and address of the person to whom correspondence regarding the application should be addressed.

(d) A statement of whether the project involves another railroad or other participant, through joint execution, coordination, or otherwise; if so, description of the relative participation of Applicant and such other railroad or participant, including financial statements (if applicable) and financing arrangements of each participant, portion of the work to be performed by each participant, and anticipated level of usage of the equipment or facility of each participant when the work is completed, along with a statement by a responsible officer or official of the other railroad or participant that the information provided reflects their agreement on these matters;

(e) A detailed description of the amount and timing of the financial assistance that is being requested and its purpose or purposes, including:

(1) Detailed description of the project and its purpose or purposes;

(2) A description of all facilities or equipment and the physical condition of such facilities or equipment included in or directly affected by the proposed project;

(3) Each part or sub-part into which the project may reasonably be divided and the priority and schedule of expenditure for each part or sub-part; and

(4) Proposed dates of commencement and completion of the project and estimated timing of the expenditure of the proceeds of the obligation;

(5) A map of Applicant's existing railroad with location of project indicated, if appropriate.

(f) A listing and description of the collateral to be offered the Administrator in connection with any financial assistance provided; Applicant's opinion of the value of this security and the basis for such opinion; in the case of leased equipment to be rehabilitated or improved with the proceeds of the obligation proposed to be guaranteed, Applicant shall state, in addition to the above, whether the lease provides for, or the lessor will permit, encumbrance of the leasehold or subordination of the lessor's interest in the equipment to the Administrator;

(g) A statement, in summary form, showing financial obligations to or claims against the United States or obligations for which the United States is guarantor, if any, by Applicant or any affiliated corporate entity of the Applicant or the Applicant's parent as of the date of the application, including:

(1) Status of any claims under litigation; and

(2) Any other debits or credits existing between the Applicant and the United States, showing the department or agency involved in such loans, claims and other debts;

(h) To the extent such information is available, an analysis that includes:

(1) a statement, together with supporting evidence including copies of all market analyses and studies that have been performed to determine present and future demand for rail services or facilities, that the financing is justified by present and future probable demand for rail services or facilities, will meet existing needs for such services or facilities, and will provide shippers or passengers with improved service;

(2) Description of the impact of the project upon the projected freight or passenger traffic to be originated, terminated, or carried by the Applicant for at least the five years immediately following completion of the project;

(3) Explanation of the manner in which the project will increase the economical and efficient utilization of equipment and facilities; and

(4) Description of cost savings or any other benefit which would accrue to the Applicant from the project;

(i) A statement as to how the project will contribute to, or enhance, the safe operation of the railroad, considering such factors as the occupational safety and health of the employees and the improvement of the physical and other conditions that have caused or may cause serious injury or loss of life to the public or significant property damage;

(j) A statement of the Applicant's maintenance program for its entire rail system and planned maintenance program for the equipment or facilities financed by the proceeds of the financial assistance;

(k) A certified statement in the form contained in § 260.31(d) that Applicant will pay to the Administrator, in accordance with § 260.11, the investigation charge with respect to the application.

(l) Information relevant to the potential environmental impacts of the project in the context of applicable Federal laws;

(m) Any additional information that the Applicant deems appropriate to convey a full and complete understanding of the project, the project's relations to the priorities listed in § 260.7, and its impact, or to assist the Administrator in making the statutorily prescribed findings; and

(n) Any other information which the Administrator may deem necessary concerning an application filed under this part.

(o) Railroad applicants must also submit a copy of application for financing for the project in the private sector, including terms requested, from at least one commercial lender, and its response refusing to provide such financing.

§ 260.25 Additional information for Applicants not having a credit rating.

Each application submitted by Applicants not having a recent credit rating from one or more nationally recognized rating agencies shall include, in the order indicated and identified by applicable numbers and letters corresponding to those used in this section, the following information:

(a) A narrative statement detailing management's business plan to enhance Applicant's ability to provide rail services including a discussion of the following:

(1) Applicant's current and prospective traffic base, including by commodity and geographic region, major markets served, major interchange points, and market development plans;

(2) Applicant's current operating patterns, and plans, if any, to enhance its ability to serve its current and prospective traffic base;

(3) System-wide plans to maintain equipment and rights-of-way at current or improved levels; and

(4) Specific plans for rationalization of marginal or uneconomic services;

(b) Detailed financial information, including:

(1) Financial statements prepared by a Certified Public Accountant (audited, if available), for the four calendar years immediately preceding the date of filing of the application, including:

(i) A copy of Applicant's most recent year-end general balance sheet and a copy of Applicant's most recent unaudited general balance sheet; and

(ii) Applicant's most recent annual income statement and a spread sheet showing unaudited monthly and year-to-date income statement data up to the date the application is filed;

(2) Projected financial statements, including spread sheets showing for each of the four years subsequent to the year in which the application is filed, both before and after giving effect to the proceeds of the assistance requested in the application:

(i) Forecasted annual income statement;

(ii) Forecasted year-end balance sheets. These spread sheets shall be

accompanied by a statement setting forth the bases for such forecasts; and

(iii) A spread sheet showing changes in financial position for the year in which the application is filed, including the period ending on the date of the application based upon actual data and the period from the date of the application to the end of the year, based upon estimated and forecasted data;

(c) Capital spending plans for the next five years;

(d) Cash flow projections;

(e) Contingency plans for termination of the project before completion, if necessary; and

(f) A narrative description of Applicant's management team, including:

(1) Rail experience of top management;

(2) Management's plans for achieving growth and its long-term capital spending plan; and

(3) A narrative description of Applicant's workforce and the historical rate of employee turnover.

§ 260.27 Additional information for loan guarantees.

Applications for a loan guarantee shall also include in the order indicated and identified by applicable numbers and letters corresponding to those used in this section, the following information:

(a) With respect to each existing obligation to be refinanced or proposed obligation:

(1) A certified copy of proposed or executed obligation agreements;

(2) A detailed description of the obligation, and a description of the series or issue of which the obligation is, or will be, a part, including:

(i) Effective date, or anticipated effective date;

(ii) Where a guarantee is sought for an outstanding obligation being refinanced, actual effective rate of interest; or where the obligation is new, the terms of the proposed obligation including the proposed effective rate of interest; and

(iii) All related documents, whether executed or proposed;

(3) For an existing obligation, the Applicant's payment history on that obligation; and

(b) With respect to each existing Lender, Holder, or prospective Lender, a statement as to:

(1) Full and correct name and principal business address;

(2) Reference to applicable provisions of law and the charter or other governing instruments conferring authority to do business on the Lender, Holder, or prospective Lender;

(3) Brief statement of the circumstances and negotiations leading to the agreement by the Lender, Holder, or prospective Lender to make the loan;

(4) Brief statement of the nature and extent of any affiliation or business relationship between the Lender, Holder, or prospective Lender and the Applicant or any of Applicant's directors, partners, or principal executive officers; and.

(5) Full and complete statement of all sums to be provided by the Lender or Holder, or to be provided by the prospective Lender in connection with the proposed obligation including:

(i) Name and address of each person to whom the payment has been made or will be made and nature of any affiliation, association, or prior business relationship between any person named in this paragraph and the Lender, Holder or prospective Lender or any of its directors, partners, or officers; and

(ii) Amount of the cash payment, or the nature and value of other consideration.

§ 260.29 Third party consultants.

Applicants may utilize independent third-party consultants to prepare a financial evaluation of the proposed project and the applicant, if approved by FRA. Providing such an evaluation would greatly assist FRA in the evaluation of the application and would significantly reduce the time necessary for FRA to process the application. We encourage the use of third party consultants.

§ 260.31 Execution and filing of the application.

(a) The original application shall bear the date of execution, be signed in ink by or on behalf of the Applicant, and shall bear the corporate seal in the case of an Applicant which is a corporation. Execution shall be by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, or if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the Applicant shall also sign a certificate in form as follows:

(Name of official) certifies that he or she is the (Title of official) of the (Name of Applicant); that he or she is authorized on the part of the Applicant to sign and file with the Administrator this application and exhibits attached thereto; that the consent of all parties whose consent is required, by law or by binding commitment of the Applicant, in order to make this application has been given; that he or she has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof relating to the aforesaid (Name of Applicant); that he or she has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his or her knowledge, information, and belief; and that Applicant will pay the balance of the investigation charge in accordance with § 260.11.

(Signature of official)
(Date)

(b) There shall be made a part of the original application the following certificate by the Chief Financial Officer or equivalent officer of the Applicant:

(Name of officer) certifies that he or she is (Title of officer) of (Name of Applicant); that he or she has supervision over the books of accounts and other financial records of the affected Applicant and has control over the manner in which they are kept; that such accounts are maintained in good faith in accordance with the effective accounting practices; that such accounts are adequate to assure that proceeds from the financing being requested will be used solely and specifically for the purposes authorized; that he or she has examined the financial statements and supporting schedules included in this application and to the best of his or her knowledge and belief those statements accurately reflect the accounts as stated in the books of account; and that, other than the matters set forth in the exceptions attached to such statements, those financial statements and supporting schedules represent a true and complete statement of the financial position of the Applicant and that there are no undisclosed assets, liabilities, commitments to purchase property or securities, other commitments, litigation in the courts, contingent rental agreements, or other contingent transactions which might materially affect the financial position of the Applicant.

(Signature of official)
(Date)

(c) The Applicant shall pay the investigation charge in accordance with § 260.11.

(d) The application shall be accompanied by a transmittal letter in form as follows:

Federal Railroad Administrator, c/o Associate Administrator for Railroad Development, Federal Railroad Administration, Washington, D.C. 20590

Re: Application for financial assistance under the Railroad Rehabilitation and Improvement Financing Program.

Dear Sir or Madam: Being duly authorized by (jointly and severally/if more than one) (the ''Applicant'') to convey the understandings hereinafter set forth, I respectfully submit this application and remit its investigation fee in the amount equal to one-half the total investigation fee established by the Administrator. By this filing, Applicant requests the Administrator to investigate the application and make the necessary findings upon which Applicant's eligibility for a direct loan or loan guarantee may be determined. Applicant understands

that neither the acceptance of this filing, the deposit of the investigation charge, nor the commencement of an investigation acknowledges the sufficiency of the application's form, content or merit. Furthermore, Applicant understands that the Administrator will incur numerous expenses by this filing with respect to the investigation of the application, the appraisal of security being offered, and the making of the necessary determinations and findings, and promises to pay, within 60 days, the remainder of the investigation fee required by the Administrator. Applicant understands that the Administrator will establish the amount of Credit Risk Premium due from Applicant, if any, as provided in § 260.15. Applicant agrees to pay such Credit Risk Premium prior to the disbursement of direct or guaranteed loan, as appropriate. Such Credit Risk Premium may be refunded as provided in § 260.15.

Respectfully submitted.

Applicant(s)
Seal(s) by Its(Their).

(e) The original application and supporting papers, and two copies thereof for the use of the Administrator, shall be filed with the Associate Administrator for Railroad Development of the Federal Railroad Administration, 1120 Vermont Ave., NW., MailStop 20, Washington, DC 20590. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed.

§ 260.33 Information requests.

If an Applicant desires that any information submitted in its application or any supplement thereto not be released by the Administrator upon request from a member of the public, the Applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would probably result from release of such information. The Administrator will keep such information confidential to the extent permitted by law.

§ 260.35 Environmental assessment.

(a) The provision of financial assistance by the Administrator under this Part is subject to a variety of environmental and historic preservation statutes and implementing regulations including the National Environmental Policy Act (''NEPA'') (42 U.S.C. 4332 *et seq.*), Section 4(f) of the Department of Transportation Act (49 U.S.C. 303(c)), the National Historic Preservation Act (16 U.S.C. 470(f)), the Coastal Zone Management Act (16 U.S.C. 1451), and the Endangered Species Act (16 U.S.C. 1531). Appropriate environmental/historic preservation documentation must be completed and approved by the Administrator prior to a decision by the Administrator on the applicant's financial assistance request. FRA's ''Procedures for Considering Environmental Impacts'' (''FRA's Environmental Procedures'') (65 FR 28545 (May 26, 1999)) or any replacement environmental review procedures that the FRA may later issue and the NEPA regulation of the Council on Environmental Quality (''CEQ Regulation'') (40 CFR Part 1500) will govern the FRA's compliance with applicable environmental/historic preservation review requirements.

(b) The Administrator, in cooperation with the applicant, has the responsibility to manage the preparation of the appropriate environmental document. The role of the applicant will be determined by the Administrator in accordance with the CEQ Regulation and Environmental Procedures.

(c) Depending on the type, size and potential environmental impact of the project for which the applicant is seeking financial assistance, FRA will need to determine whether the project is categorically excluded from detailed environmental review under FRA's Environmental Procedures and, if not, to prepare or have prepared an Environmental Assessment leading to an Environmental Impact Statement (EIS) or a Finding of No Significant Impact. At the discretion of the Administrator, Applicants may be required to prepare and submit an environmental assessment of the proposed project or to submit adequate documentation to support a finding that the project is categorically excluded from detailed environmental review. If the applicant is a public agency that has statewide jurisdiction or is a local unit of government acting through a statewide agency, and meets the requirements of section 102(2)(D) of NEPA, the applicant may be requested to prepare the EIS and other environmental documents under the Administrator's guidance.

(d) Applicants are strongly urged to consult with the Associate Administrator for Railroad Development at the earliest possible stage in project development in order to assure that the environmental/historic preservation review process can be completed in a timely manner.

(e) Applicants may not initiate any activities that would have an adverse environmental impact or limit the choice of reasonable alternatives in advance of the completion of the environmental review process. This does not preclude development by applicants of plans or designs or performance of other work necessary to support the application for financial assistance.

Subpart D—Standards for Maintenance of Facilities Involved in the Project

§ 260.37 Applicability.

This subpart prescribes standards governing the maintenance of facilities that are being, or have been, acquired, rehabilitated, improved, or constructed with the proceeds of a direct loan or a guaranteed loan issued under this part for the period during which any portion of the principal or interest of such obligation remains unpaid.

§ 260.39 Maintenance standards.

(a) When the proceeds of a direct loan or an obligation guaranteed by the Administrator under this part are, or were, used to acquire, rehabilitate, improve or construct track, roadbed, and related structures, Borrower shall, as long as any portion of the principal or interest of such obligation remains unpaid, maintain such facilities in at least the highest track class, as defined by FRA Track Safety Standards in part 213 of this chapter, specified in the Application at which the rehabilitated, improved, acquired, or constructed track is to be operated upon completion of the project.

(b) When the proceeds of a direct loan or an obligation guaranteed by the Administrator under this part are, or were, used for equipment or facilities, the Borrower shall, during the period in which any portion of the principal or interest in such obligation remains unpaid, maintain such equipment or facilities in a manner consistent with sound engineering and maintenance practices and in a condition that will permit the level of use that existed upon completion of the acquisition, rehabilitation, improvement or construction of such equipment or facilities.

§ 260.41 Inspection and reporting.

(a) Equipment or facilities subject to the provisions of this subpart may be inspected at such times as the Administrator deems necessary to assure compliance with the standards set forth in § 260.39. Each Borrower shall permit representatives of the FRA to enter upon its property to inspect and examine such facilities at reasonable times and in a reasonable manner. Such representatives shall be permitted to use such testing devices as the Administrator deems necessary to insure that the maintenance standards imposed by this subpart are being followed.

(b) Each Borrower shall submit annually to the Administrator financial

records and other documents detailing the maintenance and inspections performed which demonstrate that the Borrower has complied with the standards in § 260.39.

§ 260.43 Impact on other laws.

Standards issued under this subpart shall not be construed to relieve the Borrower of any obligation to comply with any other Federal, State, or local law or regulation.

Subpart E—Procedures To Be Followed in the Event of Default

§ 260.45 Events of default for guaranteed loans.

(a) If the Borrower is more than 30 days past due on a payment or is in violation of any covenant or condition of the loan documents and such violation constitutes a default under the provisions of the loan documents, Lender must notify the Administrator in writing and must continue to submit this information to the Administrator each month until such time as the loan is no longer in default; and the Administrator will pay the Lender of the obligation, or the Lenders's agent, an amount equal to the past due interest on the guaranteed portion of the defaulted loan. This payment will in no way reduce the Borrower's obligation to the Lender to make all payments of principal and interest in accordance with the note. If the loan is brought current, the Lender will repay to the Agency any interest payments made by the Agency, plus accrued interest at the note rate.

(b) If the default has continued for more than 90 days, the Administrator will pay to the Lender, or the Lender's agent, 90 percent of the unpaid guaranteed principal. If, subsequent to this payment being made, the default is cured and liquidation is no longer appropriate, the Lender will repay such funds to the Administrator, plus interest at the note rate.

(c) After the default has continued for more than 90 days, the Lender shall expeditiously submit to the Administrator, in writing, its proposed detailed plan to resolve the default by liquidating the collateral or by any other means. If the resolution will require the liquidation of the collateral, then the Lender's plan shall include:

(1) Proof adequate to establish that the Lender is legally in possession of the obligation, or is the agent for a Holder who is legally in possession of the obligation, and a statement of the current loan balance and accrued interest to date and the method of computing the interest;

(2) A full and complete list of all collateral, including any personal and corporate guarantees;

(3) The recommended liquidation methods for making the maximum collection possible and the justification for such methods, including recommended action for acquiring and disposing of all collateral and collecting from any guarantors;

(4) Necessary steps for preservation of the collateral;

(5) Copies of the Borrower's latest available financial statements;

(6) Copies of any guarantor's latest available financial statements;

(7) An itemized list of estimated liquidation expenses expected to be incurred along with justification for each expense;

(8) A schedule to periodically report to the FRA on the progress of liquidation;

(9) Proposed protective bid amounts on collateral to be sold at auction and a breakdown to show how the amounts were determined;

(10) If a voluntary conveyance is considered, the proposed amount to be credited to the guaranteed debt;

(11) Legal opinions, as appropriate;

(12) The Lender will obtain an independent appraisal on all collateral securing the loan which will reflect the fair market value and potential liquidation value. In order to formulate a liquidation plan that maximizes recovery, the appraisal shall consider the presence of hazardous substances, petroleum products, or other environmental hazards, which may adversely impact the market value of the collateral; and

(13) The anticipated expenses associated with the liquidation will be considered a cost of liquidation.

(d) The Administrator will inform the Lender in writing whether the Administrator concurs in the Lender's liquidation plan. Should the Administrator and the Lender not agree on the liquidation plan, negotiations will take place between the Administrator and the Lender to resolve the disagreement. When the liquidation plan is approved by the Administrator, the Lender will proceed expeditiously with liquidation. The liquidation plan may be modified when conditions warrant. All modifications must be approved in writing by the Administrator prior to implementation.

(e) Lender will account for funds during the period of liquidation and will provide the Administrator with reports at least quarterly on the progress of liquidation including disposition of collateral, resulting costs, and additional procedures necessary for successful completion of the liquidation.

(f) Within 30 days after final liquidation of all collateral, the Lender will prepare and submit to the Administrator a final report in which the Lender must account for all funds during the period of liquidation, disposition of the collateral, all costs incurred, and any other information necessary for the successful completion of liquidation. Upon receipt of the final accounting and report of loss, the Administrator may audit all applicable documentation to confirm the final loss. The Lender will make its records available and otherwise assist the Administrator in making any investigation.

(g) The Administrator shall be subrogated to all the rights of the Lender, or if Lender is agent for a Holder then to all of the rights of the Holder, with respect to the Borrower to the extent of the Administrator's payment to the Lender under this section.

(h) When the Administrator finds the final report to be proper in all respects:

(1) All amounts recovered in liquidation shall be paid to the Administrator; and

(2) The remaining obligation of the Administrator to the Lender under the guarantee, if any, will be paid directly to Lender by the Administrator.

(i) The Administrator shall not be required to make any payment under paragraphs (a) and (b) of this section if the Administrator finds, before the expiration of the periods described in such subsections, that the default has been remedied.

(j) The Administrator shall have the right to charge Borrower interest, penalties and administrative costs, including all of the United States' legally assessed or reasonably incurred expenses of its counsel and court costs in connection with any proceeding brought or threatened to enforce payment or performance under applicable loan documents, in accordance with OMB Circular A–129 (www.whitehouse.gov/omb.), as it may be revised from time to time.

§ 260.47 Events of default for direct loans.

(a) Upon the Borrower's failure to make a scheduled payment, or upon the Borrower's violation of any covenant or condition of the loan documents which constitutes a default under the provisions of the loan documents, the Administrator, at the Administrator's discretion may:

(1) Exercise any and all remedies available under the provisions of the loan agreement and other loan

documents, including any guarantees, or inherent in law or equity;

(2) Terminate further borrowing of funds;

(3) Take possession of assets pledged as collateral; and

(4) Liquidate pledged collateral.

(b) The Administrator shall have the right to charge Borrower interest, penalties and administrative costs, including all of the United States' legally assessed or reasonably incurred expenses of its counsel and court costs in connection with any proceeding brought or threatened to enforce payment or performance under applicable loan documents, in accordance with OMB Circular A–129, as it may be revised from time to time.

§ 260.49 Avoiding defaults.

Borrowers are encouraged to contact the Administrator prior to the occurrence of an event of default to explore possible avenues for avoiding such an occurrence.

Subpart F—Loan Guarantees—Lenders

§ 260.51 Conditions of guarantee.

(a) The percentage of the obligation for which Applicant seeks a guarantee is a matter of negotiation between the Lender and the Applicant, subject to the Administrator's approval. The maximum percentage of the total obligation that the Administrator will guarantee is 80 percent. The amount of guarantee allowed will depend on the total credit quality of the transaction and the level of risk believed to be assumed by the Administrator.

(b) A guarantee under this part constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which a Lender or Holder has actual knowledge at the time it becomes such Lender or Holder or which a Lender or Holder participates in or condones. In addition, the guarantee will be unenforceable by the Lender or the Holder to the extent any loss is occasioned by the violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which the Administrator acquires knowledge thereof. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by FRA in its guarantee.

(c) The Administrator may guarantee an Applicant's obligation to any Lender provided such Lender can establish to the satisfaction of the Administrator that it has the legal authority and sufficient expertise and financial strength to operate a successful lending program. Loan guarantees will only be approved for Lenders with adequate experience and expertise to make, secure, service, and collect the loans.

(d) The Lender may sell all of the guaranteed portion of the loan on the secondary market, provided the loan is not in default, or retain the entire loan.

(e) When a guaranteed portion of a loan is sold to a Holder, the Holder shall succeed to all rights of the Lender under the loan guarantee to the extent of the portion purchased. The Lender will remain bound to all obligations under the loan guarantee and the provisions of this part. In the event of material fraud, negligence or misrepresentation by the Lender or the Lender's participation in or condoning of such material fraud, negligence or misrepresentation, the Lender will be liable for payments made by the Agency to any Holder.

§ 260.53 Lenders' functions and responsibilities.

Lenders have the primary responsibility for the successful delivery of the program consistent with the policies and procedures outlined in this part. All Lenders obtaining or requesting a loan guarantee from the Administrator are responsible for:

(a) *Loan processing.* Lender shall be responsible for all aspects of loan processing, including:

(1) Processing applications for the loan to be guaranteed;

(2) Developing and maintaining adequately documented loan files;

(3) Recommending only loan proposals that are eligible and financially feasible;

(4) Obtaining valid evidence of debt and collateral in accordance with sound lending practices;

(5) Supervising construction, where appropriate;

(6) Distributing loan funds;

(7) Servicing guaranteed loans in a prudent manner, including liquidation if necessary; and

(8) Obtaining the Administrator's approval or concurrence as required in the loan guarantee documentation;

(b) *Credit evaluation.* Lender must analyze all credit factors associated with each proposed loan and apply its professional judgment to determine that the credit factors, considered in combination, ensure loan repayment. The Lender must have an adequate underwriting process to ensure that loans are reviewed by other than the originating officer. There must be good credit documentation procedures;

(c) *Environmental responsibilities.* Lender has a responsibility to become familiar with Federal environmental requirements; to consider, in consultation with the prospective borrower, the potential environmental impacts of their proposals at the earliest planning stages; and to develop proposals that minimize the potential to adversely impact the environment. Lender must alert the Administrator to any controversial environmental issues related to a proposed project or items that may require extensive environmental review. Lender must assist borrowers as necessary to comply with the environmental requirements outlined in this part. Additionally, Lender will assist in the collection of additional data when the Agency needs such data to complete its environmental review of the proposal; and assist in the resolution of environmental problems;

(d) *Loan closing.* The Lender will conduct or arrange for loan closings; and

(e) *Fees and Charges.* The Lender may establish charges and fees for the loan provided they are similar to those normally charged other Applicants for the same type of loan in the ordinary course of business.

§ 260.55 Lender's loan servicing.

(a) The lender is responsible for servicing the entire loan and for taking all servicing actions that are prudent. This responsibility includes but is not limited to the collection of payments, obtaining compliance with the covenants and provisions in the loan documents, obtaining and analyzing financial statements, verification of tax payments, and insurance premiums, and maintaining liens on collateral.

(b) The lender must report the outstanding principal and interest balance on each guaranteed loan semiannually.

(c) At the Administrator's request, the Lender will periodically meet with the Administrator to ascertain how the guaranteed loan is being serviced and that the conditions and covenants of the loan documents are being enforced.

(d) The Lender must obtain and forward to the Administrator the Borrower's annual financial statements within 120 days after the end of the Borrower's fiscal year and the due date of other reports as required by the loan documents. The Lender must analyze the financial statements and provide the Agency with a written summary of the Lender's analysis and conclusions, including trends, strengths, weaknesses, extraordinary transactions, and other indications of the financial condition of the Borrower.

(e) Neither the Lender nor the Holder shall alter, nor approve any

amendments of, any loan instrument without the prior written approval of the Administrator.

Issued in Washington, DC on June 27.

Jolene M. Molitoris,

Administrator.

[FR Doc. 00–16778 Filed 7–5–00; 8:45 am]

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Federal Register

Thursday,
July 6, 2000

Part V

Department of Education

34 CFR Part 99

Family Educational Rights and Privacy; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 99

Family Educational Rights and Privacy

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations implementing the Family Educational Rights and Privacy Act (FERPA). The amendments are needed to implement sections 951 and 952 of the Higher Education Amendments of 1998 (HEA). These amendments permit postsecondary institutions to disclose certain information to the public and to parents of students.

DATES: These regulations are effective August 7, 2000.

FOR FURTHER INFORMATION CONTACT: Ellen Campbell, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–4605. Telephone (202) 260–3887. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On June 1, 1999, the U.S. Department of Education (the Department or we) published a notice of proposed rulemaking (NPRM) in the **Federal Register** (64 FR 29532). In the preamble to the NPRM, we invited interested persons to submit comments and recommendations, particularly on the proposed regulatory definitions of ''crime of violence'' and ''final results'' under § 99.39 and the provisions concerning nonconsensual disclosure of information to parents and guardians under § 99.31(a)(14).

We also proposed the following major changes in the NPRM to incorporate statutory provisions added by the HEA:

- Permit disclosure of education records to authorized representatives of the U.S. Attorney General in specified circumstances.
- Permit non-consensual disclosure of the final results of a disciplinary proceeding against a postsecondary student in specified circumstances.
- Permit non-consensual disclosure to parents and legal guardians of students under the age of 21 of information regarding a student's violation of laws or policies governing the use or possession of alcohol or a controlled substance.

These final regulations have significant changes from those proposed in the NPRM. We have provided more detail regarding the crime of violence provision. Specifically, we have included a list of crimes of violence and non-forcible sex offenses. We have also clarified when results become ''final'' and what categories of information may be disclosed under this provision. These changes are discussed in more detail in appendix B.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 42 parties submitted comments on the proposed regulations. In appendix B, we analyze and summarize these comments and describe changes to the regulations. We discuss substantive issues under the sections of the regulations to which they pertain. Generally, we do not address technical changes and other suggestions that the law does not authorize us to make.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Assessment of Educational Impact

In the NPRM, we requested comments on whether the proposed regulations would require transmission of information that any other agency or authority of the United States gathers or makes available.

Based on the response to the NPRM and on our review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (PDF) on the Internet at the following sites:

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You may also find these regulations, as well as additional information about FERPA, on the following Web site:

http://www.ed.gov/offices/OM/fpco/

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

(Catalog of Federal Domestic Number does not apply.)

List of Subjects in 34 CFR Part 99

Administrative practice and procedure, Education, Information, Parents, Privacy, Records, Reporting and record-keeping requirements, Students.

Dated: June 28, 2000.

Richard W. Riley,

Secretary of Education.

For the reasons discussed in the preamble and appendix B, the Secretary amends part 99 of title 34 of the Code of Federal Regulations as follows:

PART 99—FAMILY EDUCATIONAL RIGHTS AND PRIVACY

1. The authority citation for part 99 continues to read as follows:

Authority: 20 U.S.C. 1232g, unless otherwise noted.

2. Section 99.1 is amended by revising paragraph (a)(2) to read as follows:

§ 99.1 To which educational agencies or institutions do these regulations apply?

(a) * * *

(2) The educational agency is authorized to direct and control public elementary or secondary, or postsecondary educational institutions.

* * * * *

3. Section 99.3 is amended by adding the definition of ''Dates of attendance'', revising the definition of ''Directory information'', and by revising paragraph (b)(1) of the definition of ''Education records'' to read as follows:

§ 99.3 What definitions apply to these regulations?

* * * * *

Dates of attendance. (a) The term means the period of time during which a student attends or attended an educational agency or institution. Examples of dates of attendance include an academic year, a spring semester, or a first quarter.

(b) The term does not include specific daily records of a student's attendance at an educational agency or institution.

(Authority: 20 U.S.C. 1232g(a)(5)(A))

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the

student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (*e.g.,* undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended.

(Authority: 20 U.S.C. 1232g(a)(5)(A))

* * * * *

Education records.

* * * * *

(b) * * *

(1) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

* * * * *

4. Section 99.5 is amended by revising paragraph (c) to read as follows:

§ 99.5 What are the rights of students?

* * * * *

(c) An individual who is or has been a student at an educational institution and who applies for admission at another component of that institution does not have rights under this part with respect to records maintained by that other component, including records maintained in connection with the student's application for admission, unless the student is accepted and attends that other component of the institution.

* * * * *

5. Section 99.31 is amended by revising paragraph (a)(3), revising paragraph (a)(8), revising paragraph (a)(9)(iii), revising paragraph (a)(13), adding new paragraphs (a)(14) and (a)(15), and revising paragraph (b) and the authority citation to read as follows:

§ 99.31 Under what conditions is prior consent not required to disclose information?

(a) * * *

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of—

(i) The Comptroller General of the United States;

(ii) The Attorney General of the United States;

(iii) The Secretary; or

(iv) State and local educational authorities.

* * * * *

(8) The disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.

* * * * *

(9) * * *

(iii)(A) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(B) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

* * * * *

(13) The disclosure, subject to the requirements in § 99.39, is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.

(14)(i) The disclosure, subject to the requirements in § 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that—

(A) The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and

(B) With respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies.

(ii) The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.

(iii) This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

(15)(i) The disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if—

(A) The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and

(B) The student is under the age of 21 at the time of the disclosure to the parent.

(ii) Paragraph (a)(15) of this section does not supersede any provision of State law that prohibits an institution of postsecondary education from disclosing information.

(b) Paragraph (a) of this section does not forbid an educational agency or institution from disclosing, nor does it require an educational agency or institution to disclose, personally identifiable information from the education records of a student to any parties under paragraphs (a)(1) through (11), (13), (14), and (15) of this section.

(Authority: 20 U.S.C. 1232g(a)(5)(A), (b)(1), (b)(2)(B), (b)(6), (h), and (i))

6. Section 99.33 is amended by revising paragraph (c) to read as follows:

§ 99.33 What limitations apply to the redisclosure of information?

* * * * *

(c) Paragraph (a) of this section does not apply to disclosures made to parents of dependent students under § 99.31(a)(8), to disclosures made pursuant to court orders, lawfully issued subpoenas, or litigation under § 99.31(a)(9), to disclosures of directory information under § 99.31(a)(11), to disclosures made to a parent or student under § 99.31(a)(12), to disclosures made in connection with a disciplinary proceeding under § 99.31(a)(14), or to disclosures made to parents under § 99.31(a)(15).

* * * * *

7. A new section 99.39 is added to read as follows:

§ 99.39 What definitions apply to the nonconsensual disclosure of records by postsecondary educational institutions in connection with disciplinary proceedings concerning crimes of violence or non-forcible sex offenses?

As used in this part:

Alleged perpetrator of a crime of violence is a student who is alleged to have committed acts that would, if proven, constitute any of the following offenses or attempts to commit the following offenses that are defined in appendix A to this part:

Arson

Assault offenses

Burglary

Criminal homicide—manslaughter by negligence

Criminal homicide—murder and nonnegligent manslaughter

Destruction/damage/vandalism of property

Kidnapping/abduction

Robbery

Forcible sex offenses.

Alleged perpetrator of a nonforcible sex offense means a student who is alleged to have committed acts that, if proven, would constitute statutory rape or incest. These offenses are defined in appendix A to this part.

Final results means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student.

Sanction imposed means a description of the disciplinary action taken by the institution, the date of its imposition, and its duration.

Violation committed means the institutional rules or code sections that were violated and any essential findings supporting the institution's conclusion that the violation was committed.

(Authority: 20 U.S.C. 1232g(b)(6))

8. Section 99.63 is revised to read as follows:

§ 99.63 Where are complaints filed?

A parent or eligible student may file a written complaint with the Office regarding an alleged violation under the Act and this part. The Office's address is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202–4605.

(Authority: 20 U.S.C. 1232g(g))

9. Section 99.64 is amended by revising paragraph (d) to read as follows:

§ 99.64 What is the complaint procedure?

* * * * *

(d) The Office may extend the time limit in this section for good cause shown.

10. Appendix A is added to part 99 to read as follows:

Appendix A To Part 99—Crimes of Violence Definitions

Arson

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Assault Offenses

An unlawful attack by one person upon another.

Note: By definition there can be no ''attempted'' assaults, only ''completed'' assaults.

(a) *Aggravated Assault.* An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious injury if the crime were successfully completed.)

(b) *Simple Assault.* An unlawful physical attack by one person upon another where neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

(c) *Intimidation.* To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words or other conduct, or both, but without displaying a weapon or subjecting the victim to actual physical attack.

Note: This offense includes stalking.

Burglary

The unlawful entry into a building or other structure with the intent to commit a felony or a theft.

Criminal Homicide—Manslaughter by Negligence

The killing of another person through gross negligence.

Criminal Homicide—Murder and Nonnegligent Manslaughter

The willful (nonnegligent) killing of one human being by another.

Destruction/Damage/Vandalism of Property

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.

Kidnapping/Abduction

The unlawful seizure, transportation, or detention of a person, or any combination of these actions, against his or her will, or of a minor without the consent of his or her custodial parent(s) or legal guardian.

Note: Kidnapping/Abduction includes hostage taking.

Robbery

The taking of, or attempting to take, anything of value under confrontational circumstances from the control, custody, or care of a person or persons by force or threat of force or violence or by putting the victim in fear.

Note: Carjackings are robbery offenses where a motor vehicle is taken through force or threat of force.

Sex Offenses, Forcible

Any sexual act directed against another person, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent.

(a) *Forcible Rape* (Except ''Statutory Rape''). The carnal knowledge of a person, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent because of his or her temporary or permanent mental or physical incapacity (or because of his or her youth).

(b) *Forcible Sodomy.* Oral or anal sexual intercourse with another person, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.

(c) *Sexual Assault With An Object.* To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.

Note: An ''object'' or ''instrument'' is anything used by the offender other than the offender's genitalia. Examples are a finger, bottle, handgun, stick, etc.

(d) *Forcible Fondling.* The touching of the private body parts of another person for the purpose of sexual gratification, forcibly or against that person's will, or both; or not forcibly or against the person's will where the victim is incapable of giving consent because of his or her youth or because of his or her temporary or permanent mental or physical incapacity.

Note: Forcible Fondling includes ''Indecent Liberties'' and ''Child Molesting.''

Nonforcible Sex Offenses (Except ''Prostitution Offenses'')

Unlawful, nonforcible sexual intercourse.

(a) *Incest.* Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

(b) *Statutory Rape.* Nonforcible sexual intercourse with a person who is under the statutory age of consent.

(Authority: 20 U.S.C. 1232g(b)(6) and 18 U.S.C. 16)

Appendix B

Analysis of Comments and Changes

Note: The following appendix will not appear in the Code of Federal Regulations.

Applicability of FERPA to Educational Agencies and Institutions (§ 99.1)

Comments: One commenter suggested that examples of an ''educational agency and institution'' should be provided in the regulations to resolve any confusion caused by the definition. Another commenter asked if the definition applies to State boards of control and governing boards of multi-campus college and university systems.

Discussion: FERPA applies to educational agencies and institutions to which funds have been made available under any program administered by the Secretary. The term ''educational agency or institution'' is not defined in the statute. Our revision clarifies that FERPA applies only to those agencies that direct or control the public elementary or secondary, or postsecondary educational institutions. These agencies include local schools districts or local school boards. We have deleted the phrase ''and performs service functions for'' because it is confusing, and have rewritten the definition to make it clearer.

For example, we would not consider a ''State educational agency'' (SEA) to be an ''educational agency'' under FERPA unless an SEA is authorized to direct and control public elementary, secondary or postsecondary educational institutions. Likewise, State boards of control and governing boards of multi-campus college and university systems may be educational agencies under FERPA if they are authorized to direct and control the institutions within their jurisdiction and if they receive Departmental funding. This authority to direct and control institutions varies according to State law.

Changes: We have revised § 99.1(a)(2) to apply to an educational agency that is authorized to direct and control public elementary or secondary, or postsecondary educational institutions.

Definitions (§ 99.3)

Dates of Attendance

Comments: Several commenters supported our more detailed explanation of the meaning of ''dates of attendance.''

Discussion: We believe that the clarification of the term ''dates of attendance'' will provide more detailed guidance to educational agencies and institutions because there has been some confusion over the term.

Changes: Although no substantive changes were made to the term ''dates of attendance,'' we have created a separate paragraph for the definition.

Directory Information

Comments: Four commenters suggested that student e-mail addresses be added to the list of examples of records that may be disclosed as ''directory information.'' One of the commenters noted that e-mail is the preferred method of communication at his institution, and that e-mail is now the primary means of communication with respect to many course-related activities. Another commenter also suggested adding class schedules and class rosters to the list. Two commenters, however, expressed concern about the safety of students if these types of information were made public. Both commenters asked that we discuss the opt-out provision because they felt many parents and students are not aware of this provision.

One commenter noted that ''photograph'' should not be included as ''directory information'' because some photographs may be taken involuntarily, such as student identification card photos. The commenter contended that institutions and the Department could be liable in an action for invasion of privacy for misappropriation of a person's likeness. The commenters believed that this could occur where an institution used photos in school catalogs.

Discussion: The examples of ''directory information'' listed in the regulations are not intended to be exhaustive. Rather, the examples illustrate the types of records that would not generally be considered harmful or an invasion of privacy if disclosed. We agree that as methods of communication and record management continue to evolve, it is useful to list additional categories of information that we believe are directory information, such as a student's e-mail address and photograph.

We do not believe that the disclosure of student e-mail addresses will generally be considered harmful or an invasion of privacy. We think that a student's e-mail address is analogous to a student's mailing address, an item already included as directory information.

The Department also has concluded that a student's photograph is a type of identifying information, like a name and address, that would generally not be harmful or an invasion of privacy if disclosed. Unlike social security numbers (SSNs), we do not believe that disclosure of photographs will allow access to other types of sensitive information such as disciplinary files or grades.

For parents or eligible students who do not wish to have institutions disclose photographs or any other category of directory information, FERPA affords them with an additional protection. FERPA requires schools to provide parents and eligible students with an opportunity to opt out of disclosing ''directory information.''

In response to the comments we received about class rosters and class schedules, we have decided not to include them in the regulations. We will reevaluate our previous advice that defined these items as ''directory information'' and further consider the concerns raised by commenters about student safety.

In particular, we are concerned that the inclusion of class rosters and class schedules may lead schools to disclose sensitive information. For instance, we believe a school's disclosure of the class schedule of a student enrolled in a special education or remedial class would be harmful or an invasion of privacy. Additionally, many class rosters include students' SSNs or other identification numbers; a disclosure of this information, even if class roster were designated as directory information, would be a violation of FERPA.

Changes: On the basis of comments that we received, we have revised the definition of directory information by adding student e-mail addresses. Additionally, as proposed in the NPRM, we have added as types of directory information enrollment status and photograph.

Sole Possession Records

Comments: Many commenters noted that the proposed definition of ''sole possession records'' should be clarified. These commenters were particularly concerned about the proposed phrases in the definition such as ''typically maintained by the school official unbeknownst to other individuals'' and ''information taken directly from a student.'' The commenters contended

that a personal note that is not known to or shared with other staff should be considered a sole possession record, even if the student knows about the note or if the information comes from the student.

One commenter noted that the proposed definition excepted records used to make decisions about the student. The commenter believed that this exception could technically apply to the most minor decision about the student. Another commenter stated that the proposed changes seemed to define ''sole possession records'' out of existence.

Discussion: We agree that our proposed definition of ''sole possession records'' requires modification. In the NPRM, we sought to clarify that ''sole possession records'' do not include evaluations of student conduct or performance. We have decided that some of the requirements in our proposed definition could be confusing.

The main purpose of this exception to the definition of ''education records'' is to allow school officials to keep personal notes private. For example, a teacher or counselor who observes a student and takes a note to remind himself or herself of the student's behavior has created a sole possession record, so long as he or she does not share the note with anyone else.

Changes: We have decided not to make the revisions we proposed in the NPRM to the definition of ''sole possession records'' in § 99.3. We have clarified this definition by making minor changes.

Rights of Students (§ 99.5)

Comments: Two commenters asked that the provision address whether a student has access to an admissions file after having been accepted for admission but before enrolling.

Discussion: The amendment clarifies that a student attending an educational institution who applies for admission to a separate component of the institution and is rejected does not have any FERPA rights with respect to records maintained by that separate component of the institution. That student does not have these rights because he or she has not attended that separate component. Similarly, a student who is admitted to a separate component of an institution does not have FERPA rights with respect to the records of that component until he or she enrolls and becomes a student in attendance there. Each institution may determine when a student is in attendance in accordance with its own enrollment procedures.

Changes: We have revised § 99.5 to clarify that a student does not have FERPA rights with respect to records collected and maintained by a separate component of an educational institution, including records concerning the student's application for admission, if the student has not actually attended the other component.

Conditions Under Which Prior Consent Is Not Required To Disclose Information (§ 99.31)

Disclosures to the U.S. Attorney General (§ 99.31(a)(3)(ii))

Comments: A commenter expressed concern that the statutory term ''for law enforcement purposes'' is confusing and asked for clarification of the term. A commenter asked if ''authorized representatives of the Attorney General of the United States'' includes only special agents in the Department of Justice or the Federal Bureau of Investigation. This commenter also asked how this provision differs from the exception in FERPA for disclosing education records without consent in compliance with a subpoena. One commenter suggested that the Family Policy Compliance Office (FPCO) work with the Attorney General and educational associations to develop a form to document appropriate demographic information and circumstances supporting the Attorney General's request for education records.

Another commenter was concerned that the amendment may allow the Attorney General to have access to the records of an individual student who is suspected of a crime. The commenter added that this provision should apply only to crimes committed by an institution to defraud the Federal government or Federally funded programs. Another commenter noted that when disclosure is made to another governmental agency without consent, it should be made clear that the agency must protect the information from unauthorized redisclosure.

Discussion: The statutory amendment provides for nonconsensual disclosure of education records to authorized representatives of the Attorney General for law enforcement purposes under the same conditions that apply to the Secretary. In the case of the Attorney General, ''law enforcement purposes'' refers to the investigation or enforcement of Federal legal requirements applicable to federally supported education programs. For example, under this exception, the authorized representatives of the Attorney General can access education records without consent in order to investigate or enforce Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, the Equal Educational Opportunities Act of 1974, Title IX of the Education Amendments of 1972, Title IV of the Civil Rights Act of 1964, or the Civil Rights of Institutionalized Persons Act (CRIPA). Authorized representatives of the Attorney General include any employee of the Department of Justice, including the Federal Bureau of Investigation, so long as the employee is authorized to investigate or enforce the Federal legal requirements applicable to federally supported education programs.

This exception does not supersede or modify the exception in § 99.31(a)(9) for disclosure in compliance with a judicial order or lawfully issued subpoena. Rather, this new exception permits non-consensual disclosure of education records in connection with the Attorney General's investigation or enforcement of Federal legal requirements of federally supported education programs. Given the limited nature of the allowable disclosures to the Attorney General, we believe that the development of a form to document the Attorney General's request for education records is not needed.

Finally, in response to the commenter seeking clarification about redisclosure provisions, we agree FERPA's redisclosure provisions apply to disclosures made to authorized representatives of the U.S. Attorney General. Section 99.35(b) provides that officials who collect information under this exception must protect the information, unless Federal law specifically authorizes the collection of that information. Officials must ensure that institutions do not permit personal identification of individuals and that they destroy the records when no longer needed. If another Federal law specifically authorizes the collection of personally identifiable information, then the provisions in that law govern the redisclosure and destruction of information. In addition to the privacy protections afforded parents and students by FERPA, the Privacy Act may afford some protections to some records maintained by Federal agencies. The Privacy Act of 1974 (5 U.S.C. 552a) protects records contained in a system of records maintained by Federal agencies that are retrieved by an individual's name, social security number or some other identifying number.

Changes: We have revised § 99.31(a)(3)(ii) by removing the phrase ''for law enforcement purposes.'' Because disclosures to the Attorney General are subject to § 99.35, those disclosures will only be made to investigate or enforce the Federal legal

requirements applicable to federally supported education programs.

Disclosures to Parents of Dependent Students (§ 99.31(a)(8))

Comments: Several commenters requested guidance on how to determine dependency status because the Internal Revenue Code definition of ''dependent'' is based on the student's status during the previous year.

One commenter noted that the NPRM assumed that the use of the words ''either parent'' implies that only two individuals might be responsible for a student's upbringing. The commenter noted that a guardian or stepparent might also be involved along with the biological parents.

Another commenter asked if a divorced parent might use this process to obtain financial information in the student's record about another parent. The same commenter also asked if the parent who claims the student as a dependent could restrict the kind of information that the institution may disclose to the other parent.

One commenter felt that this provision would harm victims of domestic violence by allowing the disclosure of information in a student's record to a domestic violence perpetrator. The commenter worried that providing educational institutions with the discretion to make these releases would not effectively safeguard victims of domestic violence. The commenter suggested that institutions be prevented from disclosing information in a student's record about one parent to another parent who has committed domestic violence.

A commenter noted that the regulations should clarify whether parents who obtain information about a dependent student under this provision are subject to the limits on redisclosure of information under § 99.33 of the FERPA regulations.

Two commenters wondered whether the provision applies to students who are legally adults and in conjunction with disclosures under § 99.31(a)(14). These commenters stated that this exception should be limited to a dependent student who is also legally a minor. Finally, this commenter also asked whether students may find out if their parents have accessed their education records.

Discussion: This amendment clarifies that if a student is claimed as a dependent for tax purposes and the individual seeking education records meets the definition of the student's ''parent'' under FERPA, then the institution has the discretion to disclose records to the parent. Under FERPA, a ''parent'' is defined as ''a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.'' 34 CFR § 99.3 (''Parent'').

We have consistently advised that, in order to determine a student's status as a dependent for tax purposes, institutions should look to the most recent year that the parent filed a return. For example, if the parent of a dependent student seeks access to the student's education records in November 1999, the institution should review the taxpayer's 1998 tax return to determine whether the student is a dependent.

Because eligible students—students attending a postsecondary institution or over the age of 18—retain all rights under FERPA, an educational agency or institution must obtain a reasonable assurance that the student meets the requirements as a dependent for tax purposes. If the educational agency or institution is unable to obtain that assurance, then information from the student's education records may not be disclosed. Once the educational agency or institution obtains that assurance, it has the discretion to, although it need not, disclose the student's education records to a parent of the student.

We received several comments concerning the use of this provision by one parent to access information about another parent. In response to these comments, we note that FERPA provides parents with broad rights of access to their children's education records when a child is under 18 and is not attending an institution of postsecondary education. This provision will have a more limited application because it is typically applied by institutions of postsecondary education.

We agree that a divorced parent could attempt to use this exception to obtain financial information in the student's education records about the other parent if the other parent claims the student as a dependent. However, an institution has no obligation to disclose any financial information about one parent to another. Thus, if a parent claims the student as a dependent, and does not want his or her financial information disclosed to his or her spouse or former spouse, the parent may make that request to the institution. The institution has the discretion not to disclose the information to the spouse or former spouse.

Because this provision provides an institution with discretion regarding what information, if any, it discloses to a parent, we do not believe that institutions will release information to known perpetrators of domestic violence. We strongly encourage victims of domestic violence to inform institutions of postsecondary education not to disclose any information from a student's education record to a perpetrator of domestic violence. We believe that institutions will understand the importance of complying with these requests. If a student or parent does not inform an institution of postsecondary education that a parent is a perpetrator of domestic violence, we do not believe it would be reasonable to expect institutions to be aware of this information. We cannot hold schools responsible for disclosures made unknowingly to a perpetrator of domestic violence.

We agree that the regulations should clarify whether parents who obtain information about a dependent student are subject to the limits on redisclosure of information under § 99.33.

This provision applies to education records of students who are legally adults. The plain language of the statute applies to ''dependent students'' including students who are adults. This provision is not related to disclosures made under the new drug and alcohol provision, contained in § 99.31(a)(14) of these regulations. Finally, dependent students can access their own education records. Under FERPA's recordkeeping requirements, the student's records contain, with some exceptions, documentation of every nonconsensual disclosure made by the institution of personally identifiable information.

Changes: We have revised § 99.31(a)(8) to clarify that it applies to a ''parent'' as defined under FERPA. We have also clarified in § 99.33(c) that parents who obtain information about a dependent student are not subject to these redisclosure limitations.

Disclosures in Response to Legal Actions (§ 99.31(a)(9)(iii))

Comments: Several commenters support a new provision that allows an educational agency or institution to disclose education records to a court on a nonconsensual basis, without a court order or subpoena, if a parent or eligible student has initiated legal action against the agency or institution and the records are necessary for the agency or institution to defend itself.

Commenters also noted that the Department has issued letters of finding stating that when a parent or student has filed a complaint with a State or Federal government agency, an accrediting agency, or a third party other than a court, an institution may disclose information to that party without consent in order to defend

itself. In particular, one commenter stated that the FPCO reversed its previous position and advised institutions that they could disclose information from a student's education record to a third party if the student alleged wrongdoing by the institution to that third party. Several commenters suggested that the regulations should address these additional instances of permissible nonconsensual disclosure. Finally, another commenter asked if third party recipients of education records, involved in litigation with a parent or student, may disclose the student's education records without consent during the course of the litigation.

Discussion: FERPA allows agencies and institutions to disclose education records without consent to comply with a judicial order or lawfully issued subpoena. The statute, however, requires that institutions first must make a reasonable effort to notify the parent or eligible student in advance of the disclosure. The purpose of this prior notification is to give the parent or eligible student an opportunity to object to the issuance of the judicial order or to move to quash the subpoena.

In 1996, the Department revised § 99.31(a)(9) to allow an educational agency or institution that initiated legal action against a parent or student to disclose relevant education records without consent and without a court order or subpoena, provided that the agency or institution had complied with the notification requirements contained in § 99.31(a)(9)(ii).

We also noted in the 1996 final regulations that we interpreted FERPA to allow an educational agency or institution to infer the parent's or student's implied waiver of the right to consent to the disclosure of information from education records if the parent or student had sued the institution. (61 FR 59292, 59294 (November 21, 1996). This interpretation allowed an educational agency or institution to disclose a student's education records to a court without consent, and without a court order or subpoena, in cases where a parent or the student had sued the agency or institution. While we discussed this interpretation in the preamble, we did not include it in the 1996 regulations.

For two reasons, we have concluded that an educational agency or institution may disclose education records to a court without consent and without a court order or subpoena if a parent or student has sued the agency or institution. First, an agency or institution should not be required to subpoena its own records or seek a judicial order in order to defend itself in a lawsuit initiated by a parent or student. Second, we believe that when a parent or eligible student sues an agency or institution, the parent or eligible student understands that the agency or institution must be able to defend itself. In order to defend itself, the agency or institution must be able to use relevant education records of the student. Thus, we believe that the parent or eligible student waives their FERPA protections under a theory of implied consent.

We have also concluded that the notification requirements contained in § 99.31(a)(9)(ii) are not necessary in any litigation between an educational agency or institution and a parent or student. For this reason, we have deleted the notification requirement in former § 99.31(a)(9)(iii) and have not included it in § 99.31(a)(9)(iii)(B) of these regulations.

The notification requirement is intended to provide a parent or student with an opportunity to object to an order or to move to quash a subpoena before an educational agency or institution discloses education records in compliance with the court order or subpoena. However, there is no such reason to require notification of a parent or student if an educational agency or institution sues a parent or student because the parent or student must be served with the lawsuit. Similarly, if a parent or student sues an educational agency or institution, the parent or student will not need to be notified of the lawsuit.

When an educational agency or institution files a lawsuit against a student or parent, the complaint is likely to disclose personally identifiable information from the student's education records. It does not make sense to require that an educational agency or institution inform a parent or student that it plans to disclose personally identifiable information from a student's education records in a complaint because a parent or student cannot do anything to prevent the complaint from being filed. Further, after a complaint has been filed, we do not think that notification of a parent or student is necessary. A parent or student who has been sued by an educational agency or institution should realize that personally identifiable information from the student's education records might be disclosed in the lawsuit. If the parent or student wants to ensure the student's privacy, the parent or student may petition the court to take measures to protect the student's privacy, such as sealing the court's records.

When a student or parent files a lawsuit against an educational agency or institution, the student or parent should realize that the educational agency or institution might need to disclose personally identifiable information from the student's education records in order to defend itself. We also feel that it is overly burdensome to require that an educational agency or institution notify the parent or student every time that it wants to disclose personally identifiable information from the student's education records in the lawsuit. Notification is also unnecessary because a parent or student who sues an educational agency or institution may petition the court to take measures to protect the student's privacy, such as sealing the court's records.

Several commenters asked the Department to extend the theory of implied waiver of the right to consent to a non-litigation context. Specifically, they alluded to the Department's ruling that when a student has taken an adversarial position against the institution, made written allegations of wrongdoing against the institution, and shared this information with third parties, the institution must be able to defend itself. While we offered this interpretation in a previous letter of finding, we did not propose to regulate on this issue in the NPRM. As a result, we cannot include these guidelines in our final regulations.

Finally, in response to the commenter who asked if third party recipients of education records may release student education records if the student or parent sues the third party, we did not address this issue in the NPRM. Thus we cannot regulate on this issue at this time.

Changes: We have added § 99.31(a)(9)(iii)(B) which allows an educational agency or institution to disclose education records to a court without consent, and without a court order or subpoena, if a parent or eligible student has initiated legal action against an educational agency or institution. We have also deleted the notification requirement in § 99.31(a)(9)(iii)(A) so that an educational agency or institution that has initiated legal action against a parent or student does not have to notify the parent or student before disclosing the student's relevant education records.

Disclosure of the Final Results of a Disciplinary Proceeding (§ 99.31(a)(13), § 99.31(a)(14), and § 99.39)

Comments: We received numerous comments about these provisions. The comments fell into four general categories: scope of the provision; the meaning of its terms; its effective date;

and the applicability of FERPA's redisclosure provisions. Specifically, with respect to the second category, commenters sought clarification of the terms ''alleged perpetrator,'' ''crime of violence,'' ''nonforcible sex offense,'' and ''final results.''

Scope of the Provision

Commenters asked whether postsecondary institutions are now required to disclose the final results of a disciplinary proceeding conducted against an alleged perpetrator of a crime of violence or a non-forcible sex offense or whether the disclosure is discretionary. Commenters added that many public institutions are subject to State open records laws that require the release of records unless that release is contrary to Federal law. Thus, one commenter contended that an institution's discretion to release the final results of specified disciplinary proceedings is an illusion because the amendment eliminated the protection that FERPA had provided against disclosure.

Some commenters asked whether institutions may disclose the final results of a disciplinary proceeding to anyone or to just the victim. One commenter also noted a change to § 99.31(a)(13). He noted that, as proposed, § 99.31(a)(13) would have limited the disclosure of final results to proceedings in which the institution determines that the student committed the violation. The commenter noted, however, that the Department requires notification of the final results of a disciplinary proceeding, regardless of the outcome, to the victim in a sexual assault case.

Definitions: ''Alleged Perpetrator''

We received many comments about the definitions used in this provision. Many comments concerned the term ''alleged perpetrator of a crime of violence.'' These commenters noted that this term is confusing. Several commenters asked who is responsible for making the determination that a student is an ''alleged perpetrator'' of a crime of violence. Specifically, one commenter wondered whether the complainant, the requester, or the institution determines that a student is an ''alleged perpetrator.''

Commenters also asked when a student becomes ''an alleged perpetrator.'' One commenter wondered if this determination is made when formal criminal charges are brought or sometime earlier in the criminal process. This commenter also wondered what would happen if the charges were dropped or if the student were found not guilty in a court of law. Several other commenters felt that a student should only become an ''alleged perpetrator'' of a crime of violence after formal criminal charges have been brought. In contrast, some other commenters suggested that Congress intended to cover disciplinary charges whether or not police or other law enforcement officials are involved. They added that the institution must determine whether a student is an ''alleged perpetrator'' of a crime of violence through the institution's disciplinary process.

Finally, some commenters expressed concern about libel or slander claims if institutions label a student an ''alleged perpetrator of a crime of violence,'' because institutions do not use the terms ''alleged perpetrator'' or ''crime of violence'' in their disciplinary codes.

''Crime of Violence''

Many commenters suggested that the regulations should identify more specifically what offenses constitute ''crimes of violence.'' For example, educational institutions asked whether petty property crimes, technical batteries, and other offenses are crimes of violence. College administrators indicated that they must be free to exercise discretion in categorizing incidents as ''crimes of violence'' without fear of losing institutional funding. Another commenter liked our proposed use of the Federal Bureau of Investigation's (FBI) Uniform Crime Reporting Program definitions.

One commenter asked that the Secretary remove confusing language and permit the disclosure of information for any student who commits a violation of institutional policies involving behavior that includes an element of violence or physical force. This commenter suggested that the term ''felony'' (which is used in the statutory definition of ''crime of violence'') should be replaced with ''other serious offense.'' This commenter also asked that we provide examples of what constitutes a ''serious'' offense. Finally, this commenter asked that the Department recognize the difference between criminal prosecutions and student disciplinary proceedings by changing the term ''student charged'' to ''student found responsible.''

''Non-Forcible Sex Offense''

Many commenters wondered whether the new disclosure provisions apply to disciplinary proceedings against alleged perpetrators of a ''non-forcible sex offense.'' The commenters were concerned that if the regulations do not apply to non-forcible sex offenses, postsecondary institutions could continue to keep proceedings secret, even matters involving such offenses as date rape. In short, these commenters were concerned that the term ''crime of violence'' may not encompass offenses such as date rape and asked that we include and define the term ''non-forcible sex offense.'' One commenter contended that, without a clear definition of ''nonforcible sex offense,'' the institution would be able to manipulate its disciplinary code in order to shield offenses from disclosure.

A commenter stated that the regulations did not define or include the term ''non-forcible sex offense'' because such an offense is considered a ''crime of violence.'' Another commenter noted that the FBI's Uniform Crime Reporting (UCR) Program defines non-forcible sex offense as statutory rape and incest. However, one commenter contended that Congress did not intend the term ''non-forcible sex offense'' to include only statutory rape and incest.

''Final Results''

Many commenters stated that the regulations should define when a result is final. They noted that at many institutions a student has a right to appeal or seek review of a decision before a result is truly final. The commenters suggested that ''final results'' should be defined as that point when all internal institutional appeals have been exhausted. However, another commenter felt that ''final results'' should be defined earlier in the disciplinary process so that the public can be informed if there is institutional favoritism in the appeals process.

Several commenters also noted that the proposed definition of ''final results'' was unclear because it did not offer sufficient guidance as to the type of information that may be released. Because the proposed definition of ''final results'' includes disclosure of the violation committed, these commenters specifically requested that we define the term ''violation committed.''

One of these commenters contended that the term ''violation committed'' calls for a plain language description of the behavior that formed the basis of the disciplinary violation. Another commenter suggested that ''violation committed'' should be defined to include the nature of the offense, including both the institution's categorization or description of the offense and any criminal offenses to which that categorization corresponds, and the date, time and location of the offense. If the term ''violation committed'' is not defined, commenters believed that institutions could release

vague summaries of offenses, such as describing an assault as ''disorderly behavior.''

Commenters also noted that the definition of the term ''final results'' calls for the ''sanction imposed.'' Consequently, these commenters requested that we define the term ''sanction imposed'' to include a description of the disciplinary action, the date of imposition and duration, and definitions of any terms used, such as 'disciplinary probation.'

Several commenters had suggestions about the methods that institutions should use to disclose the final results of disciplinary proceedings. The commenters suggested that we should permit disclosure of the final determination, or the updated crime log required under 20 U.S.C. 1092(f), rather than requiring institutions to create a new, one-line record that constitutes final results. The commenters stated that any crime of violence or non-forcible sex offense should have a related entry on the campus crime log, including the nature, date, time, and general location of each crime and the disposition of the complaint, if known. (20 U.S.C. 1092(f)(4)(A)(i) and (ii)). One commenter noted that new information pertaining to a crime or offense, such as the final results of a disciplinary proceeding, must be included in the campus crime log within two business days. (20 U.S.C. 1092(f)(4)(B)(ii)). He stated that the regulations should also clarify that everything other than the final results of the disciplinary process, such as transcripts of proceedings and other documents, remains protected by FERPA as part of a student's education record.

In contrast, one commenter argued that the statute clearly defines final results. The commenter stated that the statute lists the types of information that may be disclosed as part of the final results of the disciplinary proceeding—the student's name, the violation committed, and any sanction imposed. The commenter noted that any amendment to FERPA that takes away the privacy rights of students should be construed narrowly to protect the intent of the law. Under this reasoning, he stated, the proposed regulatory language should not be modified.

Redisclosure

Some commenters asked that the regulations clarify that redisclosure limitations in § 99.33 do not apply to disclosures under § 99.39. Because the statute provides that final results may be disclosed to anyone, these commenters reasoned that limitations on redisclosure are inappropriate.

Effective Date

Several commenters asked us to address the issue of the effective date of the regulations. In particular, they asked us if the statute applies to determinations of the final result reached after October 7, 1998, or to requests dated after October 7, 1998. These commenters explained that students subject to disciplinary proceedings conducted prior to October 7, 1998 had a legitimate belief that Federal confidentiality laws protected their education records generated during these proceedings. The commenters requested that we continue to ensure that these records remain confidential. In contrast, one commenter felt that the statute should apply to any requests dated after October 7, 1998, regardless of when the records were created. Finally, one commenter asked the Secretary to clarify how institutions should handle requests that were made after October 7, 1998, but before the effective date of the final rule.

Discussion: Scope of the Provision

This new exception to the prior written consent rule does not require postsecondary educational institutions to disclose the final results of disciplinary proceedings to anyone. The disclosure is permissive. Thus, the effect of the amendment is that institutions are now free to follow their own policies regarding disclosure of this information. Institutions should consult with their own counsel or State officials regarding whether their State open records law requires disclosure of the final results of disciplinary proceedings in which a student is found to be an alleged perpetrator of a crime of violence. In response to the commenter who was concerned about State open records laws that require disclosure, FERPA does not prevent that disclosure.

Inadvertent Deletion

In section 99.31(a)(13) of the NPRM, we inadvertently deleted a provision that permits postsecondary institutions to disclose to the victim the results of a disciplinary proceeding against the alleged perpetrator of a crime of violence, regardless of the outcome. We have reinstated that provision, designated as § 99.31(a)(13). Sections 99.31(a)(13) and 99.31(a)(14) differ significantly. Victims may be informed of the final results of a disciplinary proceeding against an alleged perpetrator under § 99.31(a)(13), regardless of the outcome of that proceeding. In contrast, under § 99.31(a)(14), the institution may disclose to the public the final results of a disciplinary proceeding only if it has determined that:

(1) The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and

(2) The student has committed a violation of the institution's rules or policies with respect to the allegation.

Definitions: ''Alleged Perpetrator'' and ''Crime of Violence''

We have reviewed the numerous comments we received on these terms. In particular, we have considered the comments from school officials that contend that student codes of conduct are not generally written using criminal terms. We agree that the statutory definition of ''crime of violence,'' as defined in 16 U.S.C. 18, is difficult to apply. Therefore, we have re-written the provision to define ''crime of violence.'' The definition consists of an all-inclusive list of ''crimes of violence.'' This list consists of:

Arson
Assault offenses
Burglary
Criminal homicide—manslaughter by negligence
Criminal homicide—murder and nonnegligent manslaughter
Destruction/damage/vandalism of property
Kidnapping/abduction
Robbery
Forcible sex offenses.

We define these crimes according to the Federal Bureau of Investigation's *Uniform Crime Reporting (UCR) Handbook* (1984) and the *UCR Reporting Handbook: National Incident-Based Reporting System* (NIBRS), Volume I (Data Collection Guidelines) (1996). We have listed these definitions in appendix A following these regulations. We have used the same definitions of murder and nonnegligent manslaughter, manslaughter by negligence, forcible sex offenses, non-forcible sex offenses, robbery, aggravated assault, burglary and arson, that are used in the Student Assistance General Provisions, 34 CFR Part 668, because institutions of postsecondary education already are familiar with these definitions. We have taken from the *UCR Reporting Handbook: NIBRS* the definitions for those crimes of violence that are not defined in the Student Assistance General Provisions regulations. Copies of these UCR publications are available from: Programs Support Section, Criminal Justice Information Services Division, Federal Bureau of Investigation, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0154.

We believe that this list will be easier to apply for institutions and that a standard set of definitions will allow for more uniform application. In response to the commenter who wondered if a petty property crime or a technical battery would constitute a crime of violence, those incidents are crimes of violence if they fall within the definitions of one of the crimes listed above.

We also agree with commenters that the term ''alleged perpetrator'' is not clear, and should be clearly defined. We define an ''alleged perpetrator'' as a student who is alleged to have committed acts that would, if proven, constitute any of the offenses that we have stated are crimes of violence or non-forcible sex offenses. As this definition suggests, we believe that institutions will have to use their judgment on a case-by-case basis about whether certain alleged acts constitute a crime of violence or non-forcible sex offense.

In order to determine if someone is an alleged perpetrator, institutions should look at allegations made as part of the disciplinary proceeding. These allegations can be made by a victim, a third-party witness, or by the institution. These allegations can be made at any time during the disciplinary proceeding, beginning from the time that an initial complaint or a charge is filed, until the final result is reached. This disciplinary process is not related to criminal proceedings. The institution does not need to refer the matter to the police or await any criminal proceedings in order to consider a student an alleged perpetrator of a crime of violence or non-forcible sex offense.

In response to the commenters who expressed concern about possible defamation claims if an institution labels a student ''an alleged perpetrator of a crime of violence,'' we note that the provision merely calls for the school to determine that a student has been alleged to have committed a crime of violence. In short, such a determination does not mean that the student committed a crime of violence, but that an allegation was made that the student engaged in the type of behavior that rises to the level described in the definitions of a crime of violence. We do not believe that a school can be found liable on a defamation claim for this type of determination.

''Non-Forcible Sex Offense''

We agree with the commenters who argued that Congress intended to cover the crimes of date rape and acquaintance rape. However, these two crimes fall within the statutory definition of ''crime of violence,'' specifically within the meaning of ''forcible sex offense'' as defined in the *UCR Reporting Handbook: NIBRS.* We have clarified that the definition of ''an alleged perpetrator of a crime of violence'' includes forcible sex offenses such as date rape and acquaintance rape. However, in an effort to avoid any confusion caused by not including a definition of ''non-forcible sex offense,'' we also define the term ''alleged perpetrator of a non-forcible sex offense'' in the regulations. ''Alleged perpetrator of a non-forcible sex offense'' is defined as ''a student who is alleged to have committed acts that, if proven, would constitute statutory rape or incest.'' This definition is based on the FBI's definition of ''non-forcible sex offense.'' The definition is listed in appendix A, which follows these regulations.

''Final Results''

The Department is concerned about violence on campus. We recognize the need for students to be aware of how an institution responds to these incidents. Therefore, we have defined ''final results'' to allow institutions to disclose the results of disciplinary proceedings before all internal reviews and appeals have been exhausted. We define ''final results'' to mean a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. We believe that this definition will benefit students who have been victims of violent crimes and non-forcible sex offenses. Institutions will not be able to claim that FERPA allows them to release results of disciplinary proceedings only after all internal reviews and appeals have been exhausted.

We agree that the regulations should provide additional guidance regarding how much and what type of information may be provided in the final results. We have defined the term ''violation committed'' and ''sanction imposed'' in order to help institutions understand what information may be released. We define ''violation committed'' as the institutional rules or code sections that were violated and any essential findings supporting the institution's conclusion that the violation was committed. We agree with the commenter that ''sanction imposed'' should be defined as a description of the disciplinary action taken by the institution, the date of its imposition, and its duration.

We believe that institutions generally will be able to disclose the final results of the disciplinary proceeding without creating new records. An institution may disclose its letter of final determination provided that the institution redacts all personally identifiable information in the letter except those portions that contain the student's name, the violation committed, and the sanction imposed. In other words, the institution must not disclose, without consent, any other portions of the letter of final determination that contain personally identifiable information that is directly related to the accused student or to any other student. If, however, the letter of final determination does not contain the violation committed or the sanction imposed, then the institution has discretion to create a new document in order to disclose this information.

Several commenters suggested that the final results of disciplinary proceedings be released in the form of an updated crime log. Because the release of this information is discretionary under FERPA, we agree with these commenters that the release of an existing crime log, as required by the campus security regulations (34 CFR § 668.46(f)), may be a satisfactory way to disseminate this information. It is worth noting that a crime log contains any crime reported to campus police or a campus security department, rather than only crimes of violence or non-forcible sex offenses.

The release of a campus crime log, however, will not disclose some information that is permitted to be disclosed under FERPA. Specifically, a campus crime log does not contain the names of alleged perpetrators of crimes of violence or non-forcible sex offenses. Rather, a campus crime log includes the nature, date, time and general location of each crime and the disposition of the complaint, if known. (20 U.S.C. 1092(f)(4)(A)(i) and (ii).) Final results that can be disclosed under FERPA, however, concern the name of the student, the disciplinary violation that the student committed, and the disciplinary sanction imposed on the student.

Redisclosure

The redisclosure limitations in § 99.33 do not apply to disclosures made under § 99.31(a)(14) because information about the final results of a disciplinary proceeding concerning a crime of violence or a non-forcible sex offense may be disclosed to anyone, including the media. Thus, we have revised § 99.33.

Effective Date

This amendment to FERPA was effective October 7, 1998. We interpret the effective date to mean the date that an institution reaches its final result in a disciplinary proceeding. This result preserves the expectation of students regarding confidentiality of disciplinary proceedings occurring before the effective date of the statute. Thus, institutions may disclose the final results of a disciplinary proceeding under § 99.31(a)(14) so long as the final results are reached on or after October 7, 1998.

With regard to requests for education records received between October 7, 1998, and the effective date of these final regulations, we will not find that institutions violated FERPA for disclosing the final results of disciplinary proceedings, regardless of when these results were reached. We previously had interpreted the effective date as being the date an institution received a request for records, rather than the date that an institution reached its final results. We will not find that institutions that followed our advice regarding this issue violated FERPA.

Changes: We have reinserted § 99.31(a)(13) in the regulations. This provision permits institutions of postsecondary education to disclose to the victim the final results of a disciplinary proceeding conducted against the alleged perpetrator of a crime of violence or a non-forcible sex offense regardless of the outcome of the proceedings. We have explained that an alleged perpetrator of a crime of violence or non-forcible sex offense should be determined by looking at the allegation that a student has committed a crime of violence or non-forcible sex offense. We have revised the definition of crime of violence to reflect an all-inclusive list of crimes. The list includes forcible sex offenses, such as date rape and acquaintance rape, and non-forcible sex offenses.

We have revised the definition of ''final results.'' The definition means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. We have also defined ''violation committed'' and ''sanction imposed.''

We have clarified that the redisclosure provisions do not apply to disclosures made in connection with a disciplinary proceeding under § 99.31(a)(14).

We have also explained that only final results determined on or after October 7, 1998, may be disclosed without consent under § 99.31(a)(14).

Disclosures to Parents About Drug and Alcohol Violations (§ 99.31(a)(15))

Comments: Many commenters were confused that § 99.31(a)(15) did not address a student's status as a dependent. They asked that we address the relationship between this exception and § 99.31(a)(8).

One commenter felt that using 21 as a dividing line will result in students being treated differently depending on their age. For example, if the institution disciplines the same student before and after the student turns 21, the institution may only disclose the earlier disciplinary determination. The commenter also believed that parents will not understand why they may be notified in the first instance and not in the second.

Another commenter pointed out that is it not clear how an institution should determine a student's age under the exception. The commenter wondered whether the institution should use the student's age when the incident occurs, when the institution determines that a disciplinary violation occurs, or when the institution makes a disclosure. He argued that the institutions should be able to disclose records to parents about violations if the student is under 21 at the time of the drug or alcohol incident.

Another commenter stated that the statute permits disclosure without consent to a ''parent'' or ''legal guardian'' but noted that the FERPA regulations define ''parent'' to include legal guardian, as well as an individual acting as a parent in the absence of a parent or a legal guardian. The commenter asked that the Department clarify the regulations by using only the term ''parent,'' because use of ''legal guardian'' is confusing and repetitive. Alternatively, he contended that the regulations should use a special, narrower term such as ''natural or adoptive parent'' because FERPA is a privacy statute and should be construed narrowly. The commenter stated that the Department should also change the definition of ''parent'' in § 99.3 specifically to include individuals who adopt children.

Another commenter requested that we clarify that the statute does not apply to determinations of disciplinary violations that were made before October 7, 1998. Similarly, a commenter questioned what rule would apply to disclosures made under this exception after the passage of the statute and prior to the promulgation of these regulations.

A commenter stated that this provision, like the statute, is unclear because the term ''disciplinary violation'' is not defined. The commenter stated that without a regulatory definition of ''disciplinary violation,'' FERPA will not be implemented uniformly throughout the 50 states, as required under 20 U.S.C. 1232g(c), and will vary based on the whims of campus administrators.

A commenter asked if there is any significance in using the term ''determination'' in § 99.31(a)(15), while using the term ''disciplinary proceeding'' in § 99.31(a)(14). He also asked if an institution must make a determination in a disciplinary proceeding, or if an institution can make a determination that there has been a violation of its disciplinary code in some other way. For example, the commenter wondered if an institution could determine that a disciplinary violation has been committed and send information to a parent under this provision if a video camera simply recorded an intoxicated student walking around campus. The commenter expressed concern that the threshold could be set so low as to eliminate the phrase ''disciplinary violation'' from the statute.

Finally, a commenter asked us to explain that students can find out when their parents have been notified of a drug or alcohol violation.

Discussion: This provision applies only to students under the age of 21 at the time of the disclosure to the parent. We clarify that an institution may disclose information under this exception without regard to whether the student is a dependent for tax purposes.

We have concluded that the student must be under 21 years of age at the time that the institution discloses to the student's parent that the student has committed a disciplinary violation with respect to alcohol or drug use or possession. We reach this conclusion because the statute links the institution's option to disclose with the age of the student and the institution's determination that the student committed a disciplinary violation. The Secretary has no statutory authority to allow institutions to disclose alcohol and drug violations of students after they have turned 21.

We agree with the commenter that the use of the term ''legal guardian'' is repetitive and unnecessary. The statutory term ''parent and guardians'' is covered by our regulatory definition of the term ''parent.'' Likewise, it would be redundant to include the term ''adoptive parents.''

In response to the comment about disciplinary violations occurring before October 7, 1998, we conclude that

institutions are not permitted to disclose any determinations of disciplinary violations reached before October 7, 1998. This conclusion protects the legitimate expectation of confidentiality that students had regarding drug or alcohol disciplinary violations before October 7, 1998.

With regard to institutional disclosures to parents under this exception occurring after October 7, 1998, but prior to the promulgation of these final regulations, we will not find that institutions violated FERPA so long as the disclosure was based on a reasonable interpretation of the statutory amendment.

We recognize that there is confusion over the terms ''determination'' and ''disciplinary violation.'' Commenters sought guidance on the meanings of these terms and the responsibilities of postsecondary institutions under this exception.

We note that an institution may make a determination under this exception without conducting any sort of disciplinary proceeding. We reached this conclusion for two reasons. First, we compared the language used by Congress in this exception and the ''crime of violence'' exception. The ''crime of violence'' exception permits the disclosure of final results of a disciplinary proceeding conducted by the institution. This statutory provision clearly indicates that, before making any disclosures under this exception, an institution must first conduct some type of hearing or proceeding.

However, the drug and alcohol provision is worded very differently. That statutory provision does not use the term ''disciplinary proceeding,'' and we believe Congress' choice of words was deliberate. Therefore, we do not have the authority to require schools to conduct a disciplinary proceeding in order to determine that a student has committed a disciplinary violation with respect to drug or alcohol use. Institutions may establish and follow their own procedures for making these types of determinations.

The limited nature of this disclosure supports our interpretation that this exception does not require institutions to conduct any sort of formal disciplinary proceeding. This exception permits disclosures only to parents. In contrast, disclosures made in accordance with § 99.31(a)(14) can be made to the public. Thus, we believe that Congress intended to make it easier for institutions to inform parents of drug and alcohol violations by allowing the institution to release the information without conducting a formal disciplinary hearing.

Although we recognize that commenters sought a definition of the term ''disciplinary violation,'' we decline to define this term. We recognize that institutions have different codes of conduct. If we imposed a specific standard for a ''disciplinary violation,'' we would be placing a large burden on institutions to conform their codes of conduct to our regulatory definition. We will not impose such a burden.

In response to the concern that an institution could set the threshold so low as to read the phrase ''disciplinary violation'' out of the statute, we do not believe that institutions will act irresponsibly when making disclosures under this provision. We also emphasize that this disclosure, as with other permissible disclosures under § 99.31(a), is discretionary. Furthermore, the statutory amendment also provides that this new exception does not supersede any provision of State law that prohibits an institution of postsecondary education from making the permitted disclosure.

Finally, FERPA does not require institutions to notify students each time the institution discloses information from their education record. Institutions, however, are required, with some exceptions, to maintain a record of each disclosure of personally identifiable information from an education record along with that education record. Students at postsecondary institutions have the right under FERPA to access and view their own education records which should include a record of any disclosures made. Postsecondary students who wish to know if their parents have been notified of drug or alcohol violations should seek access to their own education records.

Changes: We revised § 99.31(a)15 by removing the term ''legal guardian.'' We have also specified that a student must be less than 21 years of age when the institution discloses to the parent that the institution has determined that a disciplinary violation has occurred.

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Federal Register

Vol. 65, No. 130

Thursday, July 6, 2000

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FEDERAL REGISTER PAGES AND DATE, JULY

40967–41320 3
41321–41550 5
41551–41864 6

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamation:
7325 41313
7326 41547
Executive Orders:
13129 (See Notice of June 30, 2000) 41549
13161 41543
Administrative Orders:
Notices:
June 30, 2000 41549

5 CFR

178 40967

7 CFR

272 ..... 41321, 41752
273 ..... 41321, 41752
274 41321
723 41551
931 41557
958 40967
982 40970
985 40973
989 40975
1464 41551
Proposed Rules:
905 41608
927 41018

10 CFR

Proposed Rules:
55 41021

12 CFR

5 41559
915 41560
925 40979
950 40979

14 CFR

39 ..... 40981, 40983, 40985, 40988, 41326
71 ..... 40990, 40991, 41328, 41329, 41330, 41576
95 41578
Proposed Rules:
13 41528
39 ..... 41381, 41385
71 ..... 41387, 41388

17 CFR

211 40992

18 CFR

284 41581

21 CFR

73 ..... 41581, 41584
524 41587
556 41588
558 41589
884 41330
Proposed Rules:
101 41029

24 CFR

Proposed Rules:
27 41538
290 41538

26 CFR

1 ..... 40993, 41332
Proposed Rules:
1 41610

29 CFR

Proposed Rules:
4022 41610
4044 41610

30 CFR

250 41000

31 CFR

501 41334
598 41334

32 CFR

199 41002

33 CFR

100 41003
165 ..... 41004, 41005, 41007, 41009, 41010, 41342, 41590

34 CFR

99 41852

37 CFR

Proposed Rules:
201 41612

39 CFR

775 41011

40 CFR

52 ..... 41344, 41346, 41350, 41352, 41355, 41592
63 41594
180 ..... 41365, 41594, 41601
300 41369
712 41371
Proposed Rules:
52 ..... 41389, 41390, 41391
131 41216
136 41391
141 41031
142 41031
300 41392
434 41613

42 CFR

59 41268

409 41128
410 41128
411 41128
413 41128
424 41128
484 41128

47 CFR

73 ..... 41012, 41013, 41375, 41376, 41377
101 41603

Proposed Rules:

1 41613
2 41032
24 41034
73 ..... 41035, 41036, 41037, 41393, 41401, 41620, 41621
74 41401
87 41032

48 CFR

501 41377
511 41377
512 41377
525 41377
532 41377
537 41377
552 41377

Proposed Rules:

8 41264
15 41264
44 41264
52 41264
225 41037
242 41038
252 41038

49 CFR

1 41282
215 41282
220 41282
238 41282
260 41838

50 CFR

622 ..... 41015, 41016, 41379
648 41017
679 41380

Proposed Rules:

17 ..... 41404, 41405, 41782, 41812
600 41622
622 41041
660 ..... 41424, 41426
679 41044

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 6, 2000

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Yugoslavia and Afghanistan acquisitions; restrictions; published 6-6-00

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Polyether polyols production, etc.

Amendment withdrawn; published 7-6-00

Air quality implementation plans; approval and promulgation; various States:

Virginia; correction; published 7-6-00

Pesticides; emergency exemptions, etc.:

Tebufenozide; published 7-6-00

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Fludioxonil; published 7-6-00

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Yugoslavia and Afghanistan acquisitions; restrictions; published 6-6-00

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Animal drugs, feeds, and related products:

Bacitracin methylene disalicylate and Fenbendazole; published 7-6-00

Fenbendazole; published 7-6-00

Furazolidone aerosol powder; published 7-6-00

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Yugoslavia and Afghanistan acquisitions; restrictions; published 6-6-00

SMALL BUSINESS ADMINISTRATION

Small business size standards:

Help Supply Services; $10 million in average annual receipts; published 6-6-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 6-1-00

Boeing; published 6-1-00

Airworthiness standards:

Special conditions—

Raytheon Aircraft Co. Model 4000 airplane; published 6-6-00

TREASURY DEPARTMENT

Comptroller of the Currency

Corporate activities:

Equity investments; published 7-6-00

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Egg, poultry, and rabbit products; inspection and grading:

Fees and charges increase; comments due by 7-14-00; published 6-14-00

Hazelnuts grown in—

Oregon and Washington; comments due by 7-14-00; published 6-14-00

Raisins produced from grapes grown in—

California; comments due by 7-10-00; published 4-10-00

Soybean promotion and research order; comments due by 7-14-00; published 5-15-00

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Fire ant, imported; comments due by 7-10-00; published 5-11-00

COMMERCE DEPARTMENT

Export Administration Bureau

Export licensing:

Commerce control list—

Microprocessors controlled by ECCN 3A001 and Graphics accelerators controlled by ECCN 4A003; License Exception CIV eligibility expansion; comments due by 7-13-00; published 6-13-00

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Gulf of Alaska groundfish; comments due by 7-11-00; published 5-12-00

Pacific cod; comments due by 7-10-00; published 5-26-00

Pollock; steller sea lion protection measures; comments due by 7-12-00; published 6-12-00

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico reef fish; comments due by 7-10-00; published 6-9-00

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Energy efficiency of supplies and services; comments due by 7-10-00; published 5-10-00

EDUCATION DEPARTMENT

Freedom of Information Act; implementation; comments due by 7-10-00; published 6-9-00

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Water heaters; energy conservation standards; comments due by 7-12-00; published 4-28-00

ENVIRONMENTAL PROTECTION AGENCY

Acquisition regulations:

Miscellaneous amendments; comments due by 7-14-00; published 6-14-00

Air pollution control:

State operating permits programs-

Georgia; comments due by 7-10-00; published 6-8-00

Georgia; comments due by 7-10-00; published 6-8-00

State operating permits programs—

Montana; comments due by 7-13-00; published 6-13-00

Montana; comments due by 7-13-00; published 6-13-00

Tennessee; comments due by 7-10-00; published 6-8-00

Tennessee; comments due by 7-10-00; published 6-8-00

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

West Virginia; comments due by 7-13-00; published 6-13-00

Air quality implementation plans; approval and promulgation; various States:

Arizona; comments due by 7-12-00; published 6-12-00

California; comments due by 7-10-00; published 6-8-00

Indiana; comments due by 7-10-00; published 6-8-00

Utah; comments due by 7-14-00; published 6-14-00

Wisconsin; comments due by 7-10-00; published 6-8-00

Solid wastes:

Municipal solid waste landfill permit programs; adequacy determinations—

West Virginia; comments due by 7-12-00; published 6-12-00

West Virginia; comments due by 7-12-00; published 6-12-00

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 7-10-00; published 5-11-00

Water pollution; effluent guidelines for point source categories:

Coal mining; comments due by 7-10-00; published 6-1-00

Water supply:

National primary drinking water regulations—

Ground water systems; waterborne pathogens from fecal contamination; public health risk reduction; comments due by 7-10-00; published 5-10-00

Interim enhanced surface water treatment rule, Stage 1 disinfectants and disinfection byproducts rule, and State primacy requirements; revisions;

comments due by 7-13-00; published 6-13-00

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Tariffs—

Competitive local exchange carriers interstate access services; mandatory detariffing; comments due by 7-12-00; published 6-26-00

Radio stations; table of assignments:

Various States; comments due by 7-10-00; published 6-1-00

Television broadcasting:

Telecommunications Act of 1996—

Closed captioning and video description of video programming; emergency programming accessibility; comments due by 7-10-00; published 5-9-00

FEDERAL TRADE COMMISSION

Industry guides:

Household furniture industry; comments due by 7-10-00; published 6-14-00

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Energy efficiency of supplies and services; comments due by 7-10-00; published 5-10-00

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community facilities:

Supportive Housing Program; operating cost percentage increase; comments due by 7-11-00; published 5-12-00

Grants and agreements with higher education institutions, hospitals, and other non-profit organizations; uniform administrative requirements; comments due by 7-10-00; published 5-11-00

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Cook's lomatium and large-flowered wooly meadowfoam; comments due by 7-14-00; published 5-15-00

Findings on petitions, etc.—

Slender moonwort; comments due by 7-10-00; published 5-10-00

JUSTICE DEPARTMENT

Parole Commission

Federal prisoners; paroling and releasing, etc.:

District of Columbia Code; prisoners serving sentences; comments due by 7-10-00; published 5-9-00

LIBRARY OF CONGRESS

Copyright Office, Library of Congress

Copyright office and procedures:

Sound recordings, public performance; service definition; comments due by 7-14-00; published 7-6-00

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR):

Energy efficiency of supplies and services; comments due by 7-10-00; published 5-10-00

RAILROAD RETIREMENT BOARD

Railroad Retirement Act:

Annuity or lump sum application; divorced spouse benefits; comments due by 7-10-00; published 5-11-00

SMALL BUSINESS ADMINISTRATION

Disaster loan program:

Pre-Disaster Mitigation Loan Program; comments due by 7-14-00; published 6-14-00

SOCIAL SECURITY ADMINISTRATION

Testimony by agency employees and records production in legal proceedings; comments due by 7-10-00; published 5-10-00

TRANSPORTATION DEPARTMENT

Coast Guard

Boating safety:

Blood alcohol concentration; Federal standard for recreational vessel operators; comments due by 7-14-00; published 3-16-00

Drawbridge operations:

Virginia; comments due by 7-14-00; published 5-15-00

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; comments due by 7-12-00; published 6-12-00

Bell; comments due by 7-10-00; published 5-9-00

Boeing; comments due by 7-14-00; published 5-30-00

Saab; comments due by 7-10-00; published 6-13-00

Schweizer Aircraft Corp.; comments due by 7-10-00; published 5-9-00

Class E airspace; comments due by 7-10-00; published 5-23-00

Class E airspace; correction; comments due by 7-10-00; published 6-16-00

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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S. 761/P.L. 106–229

Electronic Signatures in Global and National Commerce Act (June 30, 2000; 114 Stat. 464)

H.R. 4762/P.L. 106–230

To amend the Internal Revenue Code of 1986 to require 527 organizations to disclose their political activities. (July 1, 2000; 114 Stat. 477)

Last List June 30, 2000

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