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WHEN: Tuesday, April 17, 2001 at 9:00 a.m.

WHERE: Office of the Federal Register
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Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

Contents

Federal Register

Vol. 66, No. 49

Tuesday, March 13, 2001

Administration on Aging
See Aging Administration

Aging Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14585

Agricultural Research Service
NOTICES
Inventions, Government-owned; availability for licensing, 14514–14515
Superfund program; proposed settlement agreements, etc.:
USDA Cotton Research Station, Shafter Experimental Farm Site, CA, 14515

Agriculture Department
See Agricultural Research Service
See Commodity Credit Corporation
See Cooperative State Research, Education, and Extension Service
See Forest Service
See National Agricultural Statistics Service
See Natural Resources Conservation Service

Amtrak Reform Council
NOTICES
Meetings, 14519–14520

Army Department
NOTICES
Environmental statements; availability, etc.:
Fort Bliss, TX and NM; master plan, 14556–14557
Fort George G. Meade, MD; real property master plan, 14557–14558
Privacy Act:
Systems of records, 14558–14561

Census Bureau
NOTICES
Population tabulations reported to States and localities; Commerce Secretary's decision, 14520–14521

Centers for Disease Control and Prevention
NOTICES
Grants and cooperative agreements; availability, etc.:
Occupational safety and health—
Occupational Injury Prevention Research Training Programs, 14585–14587
Meetings:
Injury Prevention and Control Advisory Committee, 14587–14588

Coast Guard
RULES
Drawbridge operations:
Florida, 14487
New Jersey, 14487–14488
Ports and waterways safety:
Tampa Bay, FL; safety zone, 14488–14490
Regattas and marine parades:
Fireworks Display, East River, NY, 14490–14491

Commerce Department
See Census Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office
See Technology Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 14520

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Belarus, 14553
Macedonia, 14553–14554
Macedonia; correction, 14554
Romania, 14554–14555
Singapore, 14555

Commodity Credit Corporation
RULES
Loan and purchase programs:
Limited California cooperative insolvency payment program, 14479–14483

Commodity Futures Trading Commission
PROPOSED RULES
Commodity Exchange Act:
Futures commission merchants; customers' funds; opting out of segregation, 14507–14512
NOTICES
Meetings:
Agricultural Advisory Committee, 14555

Cooperative State Research, Education, and Extension Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Integrated Research, Education, and Extension Competitive Grants Program—
National Integrated Food Safety Initiative, 14803–14815
Pest Management, 14787–14801
Water quality, 14773–14786
Special Research Programs—
Pest Management Alternatives Program; Food Quality Protection Act issues, 14817–14823

Corporation for National and Community Service
NOTICES
Grants and cooperative agreements; availability, etc.:
AmeriCorps programs—
Indian Tribes; allowable cost per full-time equivalent; increase, 14556

Customs Service
NOTICES
Automation program test:
Reconciliation prototype, 14619–14622

Defense Department
See Army Department

Drug Enforcement Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14595–14596

Education Department
NOTICES
Meetings:
Postsecondary Education Improvement Fund National Board, 14561

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission
NOTICES
Meetings:
International Energy Agency Industry Advisory Board, 14561–14562

Energy Information Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14562–14566

Environmental Protection Agency
RULES
Air programs:
Stratospheric ozone protection—
Laboratory essential uses (2001 CY); de minimis exemption, 14759–14770
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Washington, 14492–14500
PROPOSED RULES
Air programs:
Stratospheric ozone protection—
Laboratory essential uses (2001 CY); de minimis exemption, 14770–14772
Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Washington, 14512
NOTICES
Air pollution control:
State operating permits programs—
Louisiana, 14580–14581
Reports and guidance documents; availablity, etc:
Ferric ferrocyanide; preliminary administrative determination document on whether it is cyanide within meaning of toxic pollutants list, 14581

Federal Aviation Administration
PROPOSED RULES
Airworthiness standards:
Special conditions—
Boeing Model 777-200 series airplanes, 14504–14507
NOTICES
Airport Privatization Pilot Program; applications:
Niagara Falls International Airport, NY, 14616–14617
Meetings:
Aviation Rulemaking Advisory Committee, 14617–14619
RTCA, Inc., 14619 14619

Federal Communications Commission
PROPOSED RULES
Radio stations; table of assignments:
Mississippi, 14513

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 14581

Federal Energy Regulatory Commission
RULES
Natural gas companies (Natural Gas Act):
Pipelines; project cost limits under blanket certificates, 14486
NOTICES
Electric rate and corporate regulation filings:
Metropolitan Edison Co. et al., 14574–14576
Hydroelectric applications, 14577
Meetings; Sunshine Act, 14577–14580
Applications, hearings, determinations, etc.:
Badger Windpower, LLC, 14566
Colorado Interstate Gas Co., 14566–14567
Columbia Gas Transmission Corp., 14567–14568
Columbia Gulf Transmission Co., 14568
Dominion Transmission, Inc., 14568–14569
Dominion Transmission, Inc., 14569
El Paso Natural Gas Co., 14569
Kern River Gas Transmission Co., 14569
Northern Border Pipeline Co., 14570
PG & E Gas Transmission, Northwest Corp., 14570
Reliant Energy Gas Transmission Co., 14570–14571
Sempra Energy Resources, 14571
South Carolina Public Service Authority, et al., 14571
Tennessee Gas Pipeline Co., 14571–14572
TransColorado Gas Transmission Co., 14572
Transcontinental Gas Pipe Line Corp., 14572–14573
Transwestern Pipeline Co., 14573–14574
Wyoming Interstate Company, Ltd., 14574

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 14596–14597

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations, 14581–14584
Correction, 14624
Prohibited trade practices:
Enerjet Corp., 14584–14585

Fish and Wildlife Service
RULES
Endangered and threatened species:
Critical habitat designations—
California red-legged frog, 14625–14758
NOTICES
Endangered and threatened species permit applications, 14593–14594
Marine mammal permit applications, 14594–14595

Food and Drug Administration
NOTICES
Meetings:
Peripheral and Central Nervous System Drugs Advisory Committee, 14588–14589
Reports and guidance documents; availability, etc.:
Environmental impact assessments for veterinary medicinal products (VMP's)-Phase I (VICH GL6); industry guidance, 14589–14590
Foreign clinical studies acceptance; final guidance, 14590–14591

Forest Service
NOTICES
Environmental statements; notice of intent:
Kootenai National Forest, MT, 14515–14518
Meetings:
Lake Tahoe Basin Federal Advisory Committee, 14518

Health and Human Services Department
See Aging Administration
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Inspector General Office, Health and Human Services Department

Health Care Financing Administration
See Inspector General Office, Health and Human Services Department

Inspector General Office, Health and Human Services Department
NOTICES
Program exclusions; list, 14591–14593

Interior Department
See Fish and Wildlife Service
See Minerals Management Service

Internal Revenue Service
PROPOSED RULES
Income taxes:
Principal residence sale or exchange; exclusion of gain; correction, 14512
NOTICES
Meetings:
Art Advisory Panel, 14622–14623
Reports and guidance documents; availability, etc.:
Art Advisory Panel; closed meetings, 14623

International Trade Administration
NOTICES
Antidumping:
Aramid fiber formed of para-phenylene terephthalamide from—
Netherlands, 14540–14541
Certain pasta from—
Turkey, 14541–14542
Corrosion-resistant carbon steel flat products from—
Japan, 14542–14544
Fresh Garlic from—
China, 14544–14545
Petroleum wax candles from—
China, 14545–14546
Pure magnesium from—
Various countries, 14546–14547
Vector supercomputers from—
Japan, 14547–14548
Antidumping and countervailing duties:
Honey from—
Argentina and China, 14521–14540
Countervailing duties:
Cut-to-length carbon steel plat from—
Mexico, 14549–14551
Applications, hearings, determinations, etc.:
Harvard University, 14548
Massachusetts Institute of Technology, 14548
University of—
Chicago, 14549

Justice Department
See Drug Enforcement Administration
See Juvenile Justice and Delinquency Prevention Office
NOTICES
Pollution control; consent judgments:
Beloit Corp., 14595

Juvenile Justice and Delinquency Prevention Office
NOTICES
Meetings:
Juvenile Justice and Delinquency Prevention Coordinating Council, 14596

Minerals Management Service
NOTICES
Royalty management:
Federal oil royalty-in-kind pilot programs—
Wyoming, 14595

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

National Agricultural Statistics Service
NOTICES
Committees; establishment, renewal, termination, etc.:
Agricultural Statistics Advisory Committee, 14518

National Archives and Records Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14597

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Atlantic coastal fisheries cooperative management—
American Lobster, 14500–14502
NOTICES
Endangered and threatened species:
Recovery plan—
Summer chum salmon, 14551

National Science Foundation
NOTICES
Antarctic Conservation Act of 1978; permit applications, etc., 14597–14598
Meetings:
Interagency Arctic Research Policy Committee, 14598

Natural Resources Conservation Service
NOTICES
Environmental statements; availability, etc.:
Alma Mill Creek Watershed, WI, 14518–14519
Bad Axe Supplemental Number 6 Watershed Protection Project, WI, 14519
Field office technical guides; changes:
Wisconsin, 14519

Nuclear Regulatory Commission
RULES
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list additions, 14483–14486
PROPOSED RULES
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list additions, 14503–14504

NOTICES
Agency information collection activities:
Proposed collection; comment request, 14598
Meetings; Sunshine Act, 14601–14602
Applications, hearings, determinations, etc.:
Calvert Cliffs Nuclear Power Plant, Inc., 14599–14600
GPU Nuclear, Inc., et al., 14600–14601

Nuclear Waste Technical Review Board
NOTICES
Meetings:
Yucca Mountain NV; repository, 14602

Patent and Trademark Office
NOTICES
Committees; establishment, renewal, termination, etc.:
Patent and Trademark Public Advisory Committees, 14551–14552

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration

Securities and Exchange Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 14602–14603
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 14611–14613
International Securities Exchange LLC, 14613–14616
Applications, hearings, determinations, etc.:
Allianz Life Insurance Co. of North America et al., 14603–14607
BMO Nesbitt Burns Corp., 14607–14611

Statistical Reporting Service
See National Agricultural Statistics Service

Technology Administration
NOTICES
Meetings:
National Medal of Technology Nomination Evaluation Committee, 14552–14553

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard
See Federal Aviation Administration

Treasury Department
See Customs Service
See Internal Revenue Service

Separate Parts In This Issue

Part II
Department of Interior, Fish and Wildlife Service, 14625–14758

Part III
Environmental Protection Agency, 14759–14772

Part IV
Department of Agriculture, Cooperative State Research, Education, and Extension Service, 14773–14786

Part V
Department of Agriculture, Cooperative State Research, Education, and Extension Service, 14787–14801

Part VI
Department of Agriculture, Cooperative State Research, Education, and Extension Service, 14803–14815

Part VII
Department of Agriculture, Cooperative State Research, Education, and Extension Service, 14817–14823

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
1481.....14479

10 CFR
72.....14483

Proposed Rules:
72.....14503

14 CFR

Proposed Rules:
25.....14504

17 CFR

Proposed Rules:
1.....14507
190.....14507

18 CFR
157.....14486

26 CFR

Proposed Rules:
1.....14512

33 CFR
117 (2 documents) 14487
165 (2 documents) 24488, 14490

40 CFR
52.....14492
81.....14492
82.....14760

Proposed Rules:
52.....14512
81.....14512
82.....14771

47 CFR

Proposed Rules:
73.....14513

50 CFR
17.....14626
697.....14500

Rules and Regulations

Federal Register
Vol. 66, No. 49
Tuesday, March 13, 2001

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

Commodity Credit Corporation

7 CFR Part 1481

RIN 0560–AG41

Limited California Cooperative Insolvency Payment Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final Rule.

SUMMARY: This rule sets forth the regulations for the Limited California Cooperative Insolvency Payment Program authorized by the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (the Act). Fruit and vegetable producers who are members of a large California cooperative recently suffered losses due to the insolvency of that cooperative. Congress has designated $20 million for their benefit. This rule implements that program.

DATES: Effective March 8, 2001.

FOR FURTHER INFORMATION CONTACT: Toni D. Williams, Price Support Division (PSD), Farm Service Agency (FSA), United States Department of Agriculture (USDA), STOP 0512, 1400 Independence Avenue, SW, Washington, D.C. 20250–0512; telephone (202) 720–2270 or e-mail: *Toni_Williams@wdc.fsa.usda.gov.* A copy of this final rule is available on the PSD homepage at *http://www.fsa.usda.gov/dafp/psd/.*

SUPPLEMENTARY INFORMATION:

Notice and Comment

Section 840 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Pub. L. 106–387), requires that the regulations necessary to implement these provisions be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture (the Secretary) effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These provisions are thus issued as final and are effective immediately.

Executive Order 12866

This final rule is issued in conformance with Executive Order 12866 and has been determined to be Significant and has been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because USDA is not 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 matter of this rule.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

Unfunded Mandates

The provisions of Title II of the Unfunded Mandates Reform Act of 1995 are not applicable to this rule because the USDA is not 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 matter of this rule. Further, in any case, these provisions do not impose any mandates on state, local or tribal governments, or the private sector.

Small Business Regulatory Enforcement Fairness Act of 1996

Section 840 of Pub. L. 106–387 requires that the regulations necessary to implement these provisions be issued as soon as practicable and without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. It also requires that the Secretary use the provisions of 5 U.S.C. 808 (the Small Business Regulatory Enforcement Fairness Act (SBREFA)), which provides that a rule may take effect at such time as the agency may determine if the agency finds for good cause that public notice is impracticable, unnecessary, or contrary to the public purpose, and thus does not have to meet the requirements of § 801 of SBREFA requiring a 60-day delay for Congressional review of a major regulation before the regulation can go into effect. In addition, this rule is not considered a major rule for the purposes of SBREFA. Accordingly, because it would be, as expressed in Pub. L. 106–387, contrary to the public interest to delay those provisions of this rule is issued as final and are effective immediately.

Paperwork Reduction Act

Section 840 of Pub. L. 106–387 requires that the regulations implementing these provisions be promulgated without regard to the Paperwork Reduction Act. This means that the normal 60-day public comment period and OMB approval of the information collections required by this rule are not required before the regulations may be made effective. However, the 60-day public comment period and OMB approval under the provisions of 44 U.S.C. chapter 35 are still required after the rule is published. An emergency request for approval of an Information Collection has been submitted to OMB.

Background

Section 843 of the Act (Pub. L. 106–387) as further amended in the

Consolidated Appropriations Act, 2001 (Pub. L. No. 106–554, enacted on Dec. 21, 2000), authorizes the Secretary of Agriculture to provide up to $20 million of funds of the Commodity Credit Corporation (CCC) to make payments to producers of tomatoes, pears, peaches, and apricots who suffered a loss because of the insolvency of an agriculture cooperative. Payments cannot, under the terms of the legislation, exceed 50 percent of the loss.

In particular, the legislation provides in full:

> The Secretary of Agriculture shall use no more than $20,000,000 of funds of the Commodity Credit Corporation to make payments to producers of tomatoes, pears, peaches, and apricots that suffered a loss because of the insolvency of an agriculture cooperative in the State of California; *Provided*, that the amount of a payment made to a producer under this section shall not exceed 50 percent of the loss referred to in this section.

Recently, Tri-Valley Growers (TVG), a California fruit and vegetable processing cooperative, became insolvent. TVG at its high point had approximately 500 members and TVG members produced more than 50 percent of the canned peaches and 10 percent of the canned tomato products sold in the United States. Because of the insolvency, TVG was not able to fulfill its contract with its grower members who, as a result, suffered large 2000-crop losses. Given the timing of that insolvency in relation to the timing of the statute, the unusual and emergency nature of the relief (as reflected in the exemptions from the usual requirements of rulemaking), the geographic limitation in the statute, and the size of this well-known insolvency and its broad and significant effect on members and, through them, on local economies, it appears clear that this relief is intended to be limited to TVG members alone. There are no comparable insolvencies. While there may be other farmers who were impacted by the market effect of the insolvency, this legislation by its nature is not directed at the myriad of market events that can affect growers in all parts of the country. Rather, it is directed at one event (insolvency), in one place (California). To broaden the reach of the program would be to dilute the benefits that would otherwise go to those who lost their contracts because of the failure of their cooperative. For such persons the relief would not be simply relief from external market conditions like the many external conditions that can affect growers of all types of commodities. Such a dilution, for the reasons given, does not seem consistent with the nature and, what appears to be, intent of the legislation. In fact, the original provisions of the statute limited relief to those who could not market their crop because of the insolvency, which indicates an intent to limit payment to members with contracts. The amendment, as it is understood, was undertaken because it was realized that without the amendment cooperative members would be excluded from participation if they made use of a secondary market or a distress sale for their crops no matter how small a return their crop might have brought. In fact, it is understood that it has been the intent of this legislation from the beginning to address the special needs of the TVG members. For that reason, even assuming that the statute could be read more broadly, the statute does not compel the agency to grant all possible claims but rather allows the Secretary to determine, as a matter of discretion, which claims to allow, the only limitation being that no more than $20 million be spent. Given that discretion, it would in any event be appropriate, and the determination of the agency, to limit participation to TVG members because of the special impact on them, because of the insolvency, and because of the desire to avoid possibly diluting the assistance that is available to them. The insolvency occurred early in 2000 had its greatest impact on farms who could not then deliver commodities under the 2000-crop contracts these farmers had with TVG. In order that the relief may be concentrated where the need is the greatest. This program will be limited to those claims for that crop year understanding that those claims will be more than enough to use all of the $20 million allotted. The program, it should be emphasized, is also limited only to that production which was under a 2000 crop year contract with TVG and not any additional production which the producer may have had.

Accordingly, for these reasons, the program provided for in this rule will be limited to the claims of members of TVG and the 2000 crop year production which had been under contract. In order to effectuate the terms of the statue in a manner that is faithful to the limit on the amount of the grower's total loss that is compensable, payments shall not exceed 50 percent of the member's contract production multiplied by the final base price for that production less proceeds from any other source. The final base prices are fixed and no other price will be used to calculate the payments. The final base prices per ton to be used are $330 for apricots, $233 for yellow cling peaches, $243 for pears, and $48.50 for tomatoes. Contract production and final base price data have been obtained from TVG. As the total dollar amount of eligible claims may exceed the $20 million authorized for the program, the rules allow for a factoring of claims, if needed. To receive payments, members must: (1) have been a member of TVG; (2) have produced eligible commodities during crop year 2000 under contract with TVG; and (3) apply for a payment during the application period.

Program applications will be mailed to members of TVG who had a contract to produce an eligible commodity during crop year 2000 by the Price Support Division located in Washington, D.C. The mailed application form, CCC–870, will have preprinted information obtained from TVG and the member will need to verify and/or the correct provided information if necessary. The application form has a correction line and a remarks section so that the member may make changes and explain the reason(s) for any changes in the remarks section. Names, addresses, TVG member identification numbers, contract production and a final base price per commodity and 2000 crop year payments made to members of TVG have been obtained from TVG.

Members of TVG may contact the California State FSA Office seven business days after the start of the application period to obtain an application form, CCC–870, if an application is not received by mail. Members of TVG requesting the application form from the California State FSA Office will have the choice of receiving the application form by mail or facsimile. Members may obtain an application form from the USDA eForms website at www.sc.egov.usda.gov seven business days after the start of the application period if an application is not received by mail. The application form on the USDA eForms website should only be used if members have not received an application by mail. The application downloaded from the USDA eForms website will not have preprinted information; therefore, members will need to provide the appropriate information. The California State FSA Office will only need to receive one application per TVG member. FSA will verify the information provided. To participate in the program, members of TVG must complete the application form and return it by mail to the California State FSA Office within the announced application period. The address for the California State FSA Office is located in section 12A and 12B on the application form.

List of Subjects in 7 CFR Part 1481

California, Cooperatives, Fruits and vegetables, Insolvency, Payments

Accordingly, a new part 1481 is added to7 CFR chapter XIV, subchapter B, as set forth below:

PART 1481—LIMITED CALIFORNIA COOPERATIVE INSOLVENCY PAYMENT PROGRAM

Sec.

1481.1 Applicability.
1481.2 Administration.
1481.3 Definitions.
1481.4 Time and method of application.
1481.5 Eligibility.
1481.6 Availability of funds.
1481.7 Rate of Payment and limitations on funding.
1481.8 Offsets.
1481.9 Appeals.
1481.10 Misrepresentation.
1481.11 Maintaining records.
1481.12 Estates, trust, and minors.
1481.13 Death, incompetency, or disappearance.
1481.14 Refunds; joint and several liability.

Authority: Sec. 843, Pub. L. 106–387, 114 Stat. 1549.

§ 1481.1 Applicability.

(a) The regulations in this part set forth the terms and conditions under which the Commodity Credit Corporation (CCC) shall provide payments to certain producers who suffered a loss because of the insolvency of an agriculture cooperative in the State of California as provided for in section 843 of Pub. L. 106–387. Additional terms and conditions may be set forth in the payment application form that must be executed by participants to receive a market loss payment.

(b) Payments shall be available only for eligible commodities produced during crop year 2000, and only to members of the Tri-Valley Growers cooperative of California who contracted with the cooperative for the sale of eligible commodities authorized in section 843 of Pub. L. 106–387. Such payments must meet all the conditions for payment set out in this part.

§ 1481.2 Administration.

(a) This program shall be administered under the general supervision of the Executive Vice President, CCC, or designee and shall be carried out by the Farm Service Agency (FSA) office under the Executive Vice President's direction.

(b) FSA employees do not have the authority to modify or waive any of the provisions of the regulations of this part.

(c) The Deputy Administrator, Farm Programs, FSA, may authorize the waiver or modification of deadlines in cases where lateness or failure to meet such other requirements does not adversely affect the operation of this program and the action does not violate statutory limitations on the program.

(d) Payment applications and related documents not executed in accordance with the terms and conditions determined and announced by CCC, including any purported execution outside of the dates authorized by CCC, shall be null and void unless the Executive Vice President, CCC, shall otherwise allow.

§ 1481.3 Definitions.

The definitions set forth in this section shall be applicable for all purposes of administering the Limited California Cooperative Insolvency Payment Program established by this part.

Administrator means the FSA Administrator.

Application means Form CCC–870, the program application form.

Application period means March 8, 2001 through April 6, 2001.

Commodity Credit Corporation or CCC means the Commodity Credit Corporation.

Department or USDA means the United States Department of Agriculture.

Deputy Administrator means the Deputy Administrator for Farm Programs (DAFP), Farm Service Agency (FSA) or a designee.

Eligible commodities means apricots, yellow cling peaches, pears, and tomatoes.

Farm Service Agency or FSA means the Farm Service Agency of the Department.

Members means a grower that grew or produced, under a contract, an eligible commodity for TVG as a member of that cooperative during crop year 2000.

Secretary means the Secretary of the United States Department of Agriculture or any other officer or employee of the Department who has been delegated the authority to act in the Secretary's stead with respect to the program established in this part.

Tri Valley Growers or TVG means the insolvent agriculture cooperative that operated in the State of California under that name and contracted with members for the marketing of 2000 crop year fruits and vegetables.

United States means the 50 States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1481.4 Time and method of application.

(a) FSA will mail an application form, CCC–870, from the Price Support Division located in Washington, D.C. to members of TVG that had a contract to produce an eligible commodity during crop year 2000. The mailed application will contain preprinted information obtained from TVG. Members of TVG may request an application form, CCC–870, from the California State FSA Office if an application is not received by mail seven business days after the start of the application period in person, by phone, by mail, or by facsimile. Members may obtain an application form, CCC–870, from the USDA eForms website at *www.sc.egov.usda.gov* seven business days after the start of the application period if an application is not received by mail. The application downloaded from the USDA eForms website will not have preprinted information; therefore, members will need to provide the appropriate information. The California State FSA Office will only need to receive one application per TVG member. The address for the California State FSA Office is in section 12A and 12B of the application form. FSA will verify the information provided.

(b) A request for payments under this part must be submitted on a completed application form. That application should be submitted to the California State FSA Office and must be received by the California State FSA office by close of business on April 6, 2001. Applications not received by the close of business on April 6, 2001, will be returned as not having been timely filed and the member will not be eligible for payments under this program.

(c) The members of TVG requesting payments under this part must certify with respect to the accuracy and truthfulness of the information provided in their application for payments. All information provided is subject to a spot check and other verification by FSA. Refusal to allow FSA or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility. Furnishing the data is voluntary; however, without it program payments will not be approved. Providing a false certification to the Government is punishable by imprisonment, fines and other penalties.

§ 1481.5 Eligibility.

(a) To be eligible to receive a payment under this part, a member of TVG must:

(1) Have suffered financial losses during crop year 2000 on eligible commodities under contract with TVG.

(2) Apply for a payment during the application period.

(b) Payments may be made for losses suffered by an eligible member who is

now deceased or is a dissolved entity if a representative who currently has authority to act on behalf of the members, to the extent permitted by provisions of rules common to CCC programs. Proof of authority to sign for the deceased producer or dissolved entity must be provided. All members of a partnership or joint venture seeking benefits, or their duly authorized representatives, must sign the application for payment. If the entity has been dissolved all persons seeking payment because of the activities of that entity, or their representatives, must sign the application.

(c) Members must submit a timely application and comply with all other terms and conditions of this part and instructions issued by CCC, as well as comply with those instructions that are otherwise contained in the application form to be eligible for a payment under this part.

§ 1481.6 Availability of funds.

The total available program funds shall not exceed $20 million as provided by section 843, as amended, of Public Law 106–387.

§ 1481.7 Rate of payment and limitations on funding.

(a) Subject to the availability of funds, payments under this part may be made to members who suffered eligible 2000-crop year financial losses, because of the insolvency of TVG. Information that was provided to FSA by TVG will be preprinted on the application form, CCC–870. Payments will be calculated after the conclusion of the application period, and shall be made in an amount determined by:

(1) Having the member verify the eligible contracted commodities, the original dollar amount expected from TVG (calculated from TVG's final base price per commodity and the producer's contract production per commodity). The final base prices are fixed and no other price will be used to calculate the payments. The final base prices per ton to be used are $330 for apricots, $233 for yellow cling peaches, $243 for pears, and $48.50 for tomatoes. Contract production, final base price data and payments made to members of TVG for their 2000 crop year contract have been obtained from TVG.

(2) Having the member verify the dollar amount received from TVG and the dollar amount received from any other source for the production that was under contract for the 2000 crop year with TVG.

(3) Once the member verifies the relevant dollar amounts, FSA will calculate payments to individual members. Payments will be calculated by subtracting both the dollar amount received from TVG and the dollar amount received from any other source from the original dollar amount expected from TVG (calculated from TVG's final base price per commodity and the producer's contract production per commodity) on the contracted commodities. The difference will be considered to be the member's gross total loss for program purposes.

(4) The gross payment amount for the producer shall not exceed 50 percent of the member's gross total loss (authorized by the Act). At the close of the application period, if necessary, a uniform payment factor will be established so that total outlays will not exceed the $20 million in funds available under this program. The uniform payment factor will be determined based on the factoring of the available funds of $20 million divided by the total eligible losses suffered.

(b) [Reserved]

§ 1481.8 Offsets.

(a) Any payment or portion thereof due any person under this part shall be allowed without regard to questions of title under State law, and without regard to any claim or lien against the member, the member's commodity, or proceeds thereof, in favor of the producer or any other creditors, including agencies of the U.S. Government.

(b) The regulations governing offsets and withholdings found at 7 CFR part 1403 shall not be applicable to this part.

(c) Any payments received by a member of TVG are not subject to assignments, administrative offsets or withholdings, including administrative offset under chapter 37 of title 31, United States Code, as provided by P.L. 106–387.

§ 1481.9 Appeals.

Any member who is dissatisfied with a determination made pursuant to this part may make a request for reconsideration or appeal of such determination in accordance with the appeal regulations set forth at 7 CFR parts 11 and 780.

§ 1481.10 Misrepresentation.

(a) Whoever issues a false document or otherwise acts in violation of the provisions of this program so as to enable a member to obtain a payment to which such member is not entitled, shall become liable to CCC for any payment which CCC may have made in reliance on such sales document or as a result of such other action.

(b) The issuance of, or assistance in the issuance of, a false document or the making of, or assistance in the making of, a false statement in an application for payment or other document, for the purpose of enabling a person to obtain a payment to which such person is not entitled, may subject the person issuing such document or making such statement, or assisting in such acts, or benefitting from such acts, to liability under applicable Federal civil and criminal statutes. Such person shall also be liable for a refund of all program payments made along with any other person who is also liable for such repayments.

§ 1481.11 Maintaining records.

Members making application for a payment under this program must maintain accurate records and accounts that will document that they meet all eligibility requirements specified for the program. Such records and accounts are subject to spot-checks and must be retained for three years after the date of payment to the producer under this program and any disposition after that time is at the risk of the producer if there is cause to believe that there are program matters at issue or which could become at issue.

§ 1481.12 Estates, trust, and minors.

(a) Program documents purportedly executed by a person legally authorized to represent estates or trusts will be accepted only if such person furnishes evidence of the authority to execute such documents.

(b) A minor who is an otherwise eligible producer of the eligible commodities shall be eligible for assistance under this part only if such producer meets one of the following requirements:

(1) The minor establishes that the right of majority has been conferred on the minor by court proceedings or by statute;

(2) A guardian has been appointed to manage the minor's property and has executed the applicable program documents; or

(3) A bond is furnished under which the surety guarantees any loss incurred for which the minor would be liable had the minor been an adult.

§ 1481.13 Death, incompetency, or disappearance.

In the case of death, incompetency, disappearance or dissolution of a producer that is eligible to receive benefits in accordance with this part, such person or persons specified in part 707 of this title may receive such benefits, as determined appropriate by FSA.

§ 1481.14 Refunds; joint and several liability.

(a) In the event there is a failure to comply with any term, requirement, or condition for payment arising under the application or this part, and if any refund of a payment to CCC shall otherwise become due in connection with the application or this part, all payments made under this part to any member shall be refunded to CCC together with interest as determined in accordance with this section and late payment charges as provided in part 1403 of this chapter.

(b) All members signing an application for payment as having an interest in such payments shall be jointly and severally liable for any refund, including related charges, that is determined to be due for any reason under the terms and conditions of the application or this part. Reference in this part to ''application'' and ''form application'' shall be taken to be interchangeable.

(c) Interest shall be applicable to refunds required of any producer under this part if CCC determines that payments or other assistance were provided to a producer who was not eligible for such assistance or determines that a refund is due for any other reason. Such interest shall be charged at the rate of interest that the United States Treasury charges the CCC for funds, as of the date CCC made benefits available. Such interest shall accrue from the date of repayment or the date interest increases as determined in accordance with applicable regulations. CCC may waive the accrual of interest if CCC determines that the cause of the erroneous determination was not due to any action of the producer.

(d) In addition, late payment interest shall be assessed on all refunds in accordance with the provisions of part 1403 of this chapter.

(e) Members must refund to CCC any excess payments made by CCC with respect to such application.

Signed in Washington, D.C., on March 6, 2001.

James R. Little,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 01–6179 Filed 3–8–01; 3:28 pm]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG67

List of Approved Spent Fuel Storage Casks: HI-STAR 100 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations by revising the Holtec International HI-STAR 100 cask system listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 2 to the Certificate of Compliance (CoC). Amendment No. 2 revises the HI-STAR 100 cask system Appendix B of the Technical Specifications (TS), Item 1.4.6, ''Specific Parameters and Analysis for the Storage Pad and Foundation'' to simplify the language of this specification. The current 60-g limit for cask drop and tipover events in TS Item 1.4.6 would remain unchanged. This amendment will allow the holders of power reactor operating licenses to store spent fuel in the HI-STAR 100 cask system, as amended, under a general license.

DATES: The final rule is effective May 29, 2001, unless significant adverse comments are received by April 12, 2001. If this rule is withdrawn, timely notice will be published in the **Federal Register**.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website (*http://ruleforum.llnl.gov*). This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: *cag@nrc.gov*).

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room located at 11555 Rockville Pike, Rockville, MD. These documents also may be viewed and downloaded electronically via the rulemaking website.

Documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. An electronic copy of the proposed CoC and preliminary Safety Evaluation Report (SER) can be found in ADAMS under Accession No. ML003770774. For more information, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, 202–634–3273 or by email to *pdr@nrc.gov*.

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail, spt@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary [of the Department of Energy] shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license, publishing a final rule, in 10 CFR Part 72 entitled ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181, July 18, 1990). This rule also established a new Subpart L within 10 CFR Part 72 entitled ''Approval of Spent Fuel Storage Casks,'' containing procedures and criteria for obtaining NRC approval of dry storage cask designs.

The NRC subsequently issued a final rule on September 3, 1999 (64 FR 48274), that approved the HI-STAR 100 cask design, added it to the list of NRC-approved cask designs in § 72.214, and

issued Certificate of Compliance Number (CoC No.) 1008.

Discussion

On August 4, 2000, Holtec International (the certificate holder), submitted an application to the NRC to amend CoC No. 1008. Amendment No. 2 revises the HI-STAR 100 cask system Appendix B of the Technical Specifications, Item 1.4.6, ''Specific Parameters and Analysis for the Storage Pad and Foundation'' to simplify the language of this specification. The current 1.4.6 states:

''In addition to the requirements of 10 CFR 72.212(b)(2)(ii), the cask storage pads and foundation shall include the following characteristics as applicable to the drop and tipover analyses:

a. Concrete Thickness: < 36 inches
b. Concrete Compressive Strength: <4,200 psi at 28 days
c. Reinforcement top and bottom (both directions):
Reinforcement area and spacing determined by analysis
Reinforcement shall be 60 ksi yield strength ASTM material
d. Soil Effective Modulus of Elasticity: < 28,000 psi

(measured prior to installation of ISFSI)

An acceptable method of defining the soil effective modulus of elasticity applicable to the drop and tipover analyses is provided in Table 13 of NUREG/CR–6608 with soil classification in accordance with ASTM D2487–93, Standard Classification of Soils for Engineering Purposes (Unified Soil Classification System, USCS), and density determination in accordance with ASTM D1586–84, Standard Test Method for Penetration Test and Split/Barrel Sampling of Soils.''

The proposed revision will state:

''The cask storage pads shall be verified by analysis to limit cask deceleration during both the design basis drop and the non-mechanistic tipover event to ≤ 60 g's at the top of the MPC fuel basket. Analyses shall be performed using methodologies consistent with those described in the HI-STAR FSAR.''

The current 60 g limit for cask drop and tipover events in Item 1.4.6 would remain unchanged. This amendment will allow the holders of power reactor operating licenses to store spent fuel in the HI-STAR 100 cask system, as amended, under a general license. The NRC staff performed a safety evaluation of the amendment request and found that the changes provide reasonable assurance that the spent fuel can be stored safely and in compliance with 10 CFR Part 72. This direct final rule will revise the HI-STAR 100 cask system listing within the list of NRC-approved casks for spent fuel storage in § 72.214 by adding Amendment No. 2 to CoC No. 1008. The amended HI-STAR 100 cask system, when used in accordance with the conditions specified in the CoC and NRC regulations, will meet the requirements of 10 CFR Part 72; thus, adequate protection of public health and safety will continue to be ensured. Amendment No. 2 applies to any HI-STAR 100 cask loaded after May 29, 2001.

Amendment No. 2 to CoC No. 1008 and the underlying SER, and the Environmental Assessment and Finding of No Significant Impact are available for inspection and comment at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the CoC and SER may be obtained from Stan Turel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6234, email *spt@nrc.gov.* An electronic copy of the proposed CoC and preliminary SER can be found in the NRC's Electronic Reading Room in ADAMS under Accession No. ML003770774.

Discussion of Amendments by Section

Section 72.214 List of approved spent fuel storage casks.

Certificate No. 1008 will be revised indicating the addition of Amendment No. 2 and its effective date.

Procedural Background

This rule is limited to the changes contained in Amendment No. 2 to CoC 1008 and does not include other aspects of the HI-STAR 100 cask system design. Because NRC considers this amendment to its rules to be noncontroversial and routine, the NRC is using the direct final rule procedure for this rule. The amendment to the rules will become effective on May 29, 2001. However, if the NRC receives significant adverse comments by April 12, 2001, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**. These comments will be addressed in a subsequent final rule. Absent significant modification to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA) or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Plain Language

The Presidential Memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing,'' directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113), requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC will revise the Holtec International HI-STAR 100 cask system listing within the list of NRC approved casks for spent fuel storage in 10 CFR 72.214. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in Subpart A of 10 CFR Part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule will add Amendment No. 2 to the HI-STAR 100 cask system to the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel under a general

license at reactor sites without additional site-specific approvals by the NRC. Amendment No. 2 will revise Appendix B of the Technical Specifications, Item 1.4.6, ''Specific Parameters and Analysis for the Storage Pad and Foundation'' to simplify the language of this specification. The current 60-g limit for cask drop and tipover events in Item 1.4.6 would remain unchanged. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Stan Turel, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 415–6234, email *spt@nrc.gov.*

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR Part 72 to provide for the storage of spent nuclear fuel under a general license in cask system designs approved by the NRC. Any nuclear power reactor licensee can use NRC-certified casks to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met.

A list of NRC-approved cask system designs is contained in § 72.214. On September 3, 1999 (64 FR 48274), the NRC issued an amendment to Part 72 that approved the HI-STAR 100 cask design, added it to the list of NRC-approved cask designs in § 72.214, and issued CoC No. 1008. On August 4, 2000, Holtec International (the certificate holder), submitted an application to the NRC to amend CoC No. 1008. Amendment No. 2 revises the HI-STAR 100 cask system Appendix B of the Technical Specifications, Item 1.4.6, ''Specific Parameters and Analysis for the Storage Pad and Foundation'' to simplify the language of this specification. The current 60-g limit for cask drop and tipover events in Item 1.4.6 would remain unchanged. This amendment will allow the holders of power reactor operating licenses to store spent fuel in the HI-STAR 100 cask system under a general license.

This rule will permit manufacture of casks under the revisions in Amendment 2. The alternative to this action is to withhold approval of this amended cask system design and give a site-specific license to each utility that proposes to use the casks. This alternative would cost both the NRC and the utilities more time and money in that each utility would have to pursue a new site-specific license. Conducting site-specific reviews would be in conflict with NWPA direction to the NRC to approve technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the NRC. This alternative does not foster competition because it would tend to favor new vendors without cause and would arbitrarily limit the choice of cask system designs available to power reactor licensees.

Approval of the direct final rule would eliminate the above problems and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and Holtec International. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

List of Subjects In 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is adopting the following amendments to 10 CFR Part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d–48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C.

2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. Section 72.214, Certificate of Compliance (CoC) 1008 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1008.
Initial Certificate Effective Date: October 4, 1999.
Amendment Number 1 Effective Date: December 26, 2000.
Amendment Number 2 Effective Date: May 29, 2001.
SAR Submitted by: Holtec International.
SAR Title: Final Safety Analysis Report for the HI-STAR 100 Cask System.
Docket Number: 72–1008.
Certificate Expiration Date: October 4, 2019.
Model Number: HI-STAR 100.

* * * * *

Dated at Rockville, Maryland, this 1st day of March, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–6168 Filed 3–12–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Natural Gas Pipelines; Project Cost and Annual Limits

Issued February 6, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.308(x)(1), the Director of the Office of Energy Projects (OEP) computes and publishes the project cost and annual limits for natural gas pipelines blanket construction certificates for each calendar year.

EFFECTIVE DATE: January 1, 2001.

FOR FURTHER INFORMATION CONTACT: Michael J. McGehee, Division of Pipeline Certificates, (202) 208–2257.

SUPPLEMENTARY INFORMATION:

Publication of Project Cost Limits Under Blanket Certificates

[Docket No. RM81–19–000]

Order of the Director, OEP

Issued February 6, 2001.

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the ''limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GDP implicit price deflator' published by the Department of Commerce for the previous calendar year.''

Pursuant to § 375.308(x)(l) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Energy Projects. The cost limits for calendar year 2001, as published in Table I of § 157.208(d) of Table II of § 157.215(a), are hereby issued.

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural gas, Reporting and recordkeeping requirements.

Daniel M. Adamson,

Director, Office of Energy Projects.

Accordingly, 18 CFR Part 157 is amended as follows:

PART 157—[Amended]

1. The authority citation for Part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

2. Table I in § 157.208(d) is revised to read as follows:

§ 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

Year	Limit	
	Auto proj. cost limit (col. 1)	Prior notice proj. cost limit (col. 2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000
1994	6,600,000	18,100,000
1995	6,700,000	18,400,000
1996	6,900,000	18,800,000
1997	7,000,000	19,200,000
1998	7,100,000	19,600,000
1999	7,200,000	19,800,000
2000	7,300,000	20,200,000
2001	7,400,000	20,600,000

* * * * *

3. Table II in § 157.215(a) is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

(5) * * *

TABLE II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000
1994	4,100,000
1995	4,200,000
1996	4,300,000
1997	4,400,000
1998	4,500,000
1999	4,550,000
2000	4,650,000
2001	4,750,000

* * * * *

[FR Doc. 01–6165 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–01–019]

Drawbridge Operation Regulations; Crescent Beach Bridge (SR 206), Crescent Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Crescent Beach Bridge across the Intracoastal Waterway, mile 788.6, Crescent Beach, St. Johns County, Florida. This deviation allows the drawbridge owner or operator to only open one leaf of the drawbridge, from 8 a.m. until 5 p.m., with double leaf openings available if 4 hours advance notice is provided to the bridge tender, from March 19, 2001 to May 18, 2001. This temporary deviation is required to allow the bridge owner to safely complete maintenance on the bridge.

DATES: This deviation is effective from March 19, 2001 to May 18, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Chief, Operations Section, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The Crescent Beach Bridge across the Atlantic Intracoastal Waterway at Crescent Beach, St. Johns County, FL is a double leaf bridge with a vertical clearance of 25.0 feet above mean high water (MHW) measured at the fenders in the closed position with a horizontal clearance of 90 feet. On February 14, 2001, Coastal Marine Construction Inc. representing the drawbridge owner, requested a deviation from the current operating regulations in 33 CFR 117.5. Those regulations require the draw to fully open on signal. This temporary deviation was requested to allow necessary maintenance to the drawbridge in a critical time sensitive manner.

The District Commander has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 for the purpose of maintenance on the drawbridge. Under this deviation, the Crescent Beach Bridge need only open one leaf from 8 a.m. until 5 p.m. from March 19, 2001 to May 18, 2001. Double leaf openings will be available if a 4 hour advance notice is given to the bridge tender.

Dated: March 5, 2001.

Greg E. Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 01–6219 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01–01–025]

RIN 2115–AE47

Drawbridge Operation Regulations: Hackensack River, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; withdrawal of notice of deviation.

SUMMARY: The Coast Guard is establishing a temporary final rule governing the operation of the Lincoln Highway Bridge, at mile 1.8, across the Hackensack River at Jersey City, New Jersey. This temporary final rule requires vessels to provide a one-hour daytime advance notice and a four-hour nighttime advance notice for bridge openings through May 7, 2001. This action is necessary to facilitate maintenance of the bridge.

DATES: This temporary final rule is effective from March 13, 2001 through May 7, 2001.

ADDRESSES: The public docket and all documents referred to in this notice are available for inspection or copying at the First Coast Guard District, Bridge Branch Office, 408 Atlantic Avenue, Boston, Massachusetts, 02110, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Yee, Project Officer, First Coast Guard District, (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Regulatory Information

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after publication in the **Federal Register**. The temporary rule will not impose bridge closure periods, only advance notification requirements. The Coast Guard discussed the advance notification periods with all known waterway users likely to be impacted by this change in operating regulations and none objected. Any delay encountered in this regulation's effective date would be unnecessary and contrary to the public interest since immediate action is needed to perform maintenance repairs at the bridge to insure continued safe operation.

Background

The Lincoln Highway Bridge, at mile 1.8, across the Hackensack River has a vertical clearance of 35 feet at mean high water and 40 feet at mean low water. The existing operating regulations require the bridge to open on signal at all times.

The owner of the bridge, the New Jersey Department of Transportation (NJDOT), requested a temporary change to the operating regulations for the bridge to allow the bridge to operate as follows: February 12, 2001 through May 7, 2001 the Lincoln Highway Bridge shall open on signal; except that, Monday through Thursday, 9 a.m. to 4 p.m., at least a one-hour advance notice for bridge openings is required and from 9 p.m. on Friday through 5 a.m. on Monday, at least a four-hour advance notice for bridge openings is required. Vessels that can pass under the bridges without openings may do so at all times.

The bridge owner was initially granted a 60-day deviation to the operating regulations effective February 12, 2001 and published in the **Federal Register** on February 21, 2001 at 66 FR 10965. Because the bridge repair work is expected to take more than 60 days to complete, the notice of deviation is withdrawn and superseded by this temporary final rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. 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). This conclusion is based on the fact that the bridge will continue to open at all times provided the advance notice is given.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the bridge will continue to open on signal at all times provided the advance notice is given.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From March 13, 2001 through May 7, 2001, in § 117.723 a new temporary paragraph (i) is added to read as follows:

§ 117.723 Hackensack River

* * * * *

(i) The Lincoln Highway Bridge, mile 1.8, shall open on signal; except that, Monday through Thursday, 9 a.m. to 4 p.m., at least a one-hour advance notice for bridge openings is required and from 9 p.m. on Friday through 5 a.m. on Monday, at least a four-hour advance notice for bridge openings is required.

Dated: February 27, 2001.

G.N. Naccara,

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

[FR Doc. 01–6218 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Tampa 00–054]

RIN 2115–AA97

Safety Zone Regulations: Tampa Bay, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the regulations for floating safety zones around Liquefied Petroleum Gas (LPG) vessels transiting the waters of Tampa Bay. This action is necessary due to the opening of a new LPG facility in Port Sutton. This rule will enhance public and maritime safety by minimizing meeting and overtaking situations between other vessels and LPG vessels.

DATES: This rule is effective April 12, 2001.

ADDRESSES: Documents mentioned in this preamble as being available in the docket, are part of docket COTP Tampa 00–054 and are available for inspection or copying at Marine Safety Office Tampa, 155 Columbia Drive, Tampa between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Commanding Officer, Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida 33606, Attention: Lieutenant Warren Weedon, or phone (813) 228–2189 ext. 101.

SUPPLEMENTARY INFORMATION:

Regulatory History

On December 6, 2000, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Safety Zone Regulations: Tampa Bay, Florida'' in the **Federal Register** (65 FR 76195). No public hearing was requested, and none was held. No comments were received during the comment period.

Background and Purpose

In June 2000, SEA–3, a new LPG facility, started operations and expects to receive approximately six (6) LPG vessels per year. Prior to the opening of the SEA–3 facility, all LPG vessels calling on Tampa Bay received a safety zone in accordance with 33 CFR 165.704. To enhance public and marine safety and to minimize meeting and overtaking situations, the Coast Guard is amending the safety zone transit requirements for LPG vessels by adding a new section that mirrors the established safety zone requirements for Anhydrous Ammonia (NH3) vessels that call on Port Sutton. The current LPG regulations which start at Tampa Bay Cut ''J'' provide safety zone requirements for LPG vessels calling at the LPG facility located at Rattlesnake and will remain as is, except for standardizing the moving safety zone size which will minimize confusion and provided consistency throughout all of the port's safety zones. The revisions include standardizing the safety zone surrounding LPG vessels from 500 yards to 1000 yards and replacing the safety zone extending 50 feet waterside while the vessel is moored, with a requirement calling for passing vessels to provide a 30 minute notification allowing the LPG vessel time to take appropriate safety precautions.

In the late 1980's and early 1990's, many safety changes were made to the port, including the widening and

deepening of the shipping channels, installation of centerline range marks, inbound and outbound, an increased brightness in range lights, and a new Vessel Traffic Advisory System (VTAS). These changes have enhanced the level of safety on the navigable waters of Tampa Bay. Incorporating these amendments will further enhance safety on the waters of Tampa Bay.

Discussion of Comments and Changes

No comments were received during the comment period and no changes have been made to the rule as published in the NPRM.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of the order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This regulation is needed to ensure public safety in a limited area of Tampa Bay.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612 *et seq.*), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses and not for profit organizations that are independently owned and operated and are not dominant in their field and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities as the regulations will only be in effect approximately six (6) times per year in a limited area of Tampa Bay. Meeting or overtaking of the vessel is permitted between Gadsden Cut buoys #3 and #7; therefore, the impact on other waterway users is expected to be minimum.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–221), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520.).

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard has considered the environmental impact of this rule and concludes that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, that this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

In consideration of the foregoing, the Coast Guard amends 33 CFR part 165, 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; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. Revise § 165.704 to read as follows:

§ 165.704 Safety Zone; Tampa Bay, Florida.

(a) A floating safety zone is established consisting of an area 1000 yards fore and aft of a loaded Liquefied Petroleum Gas (LPG) vessel and the width of the channel in the following areas. Any vessels desiring to enter the safety zone must obtain authorization from the Captain of the Port Tampa.

(1) For vessels loaded with LPG and bound for the LPG receiving terminal in Port Sutton the safety zone starts at Tampa Bay Cut ''F'' Channel from Lighted Buoys ''3F'' and ''4F'' and proceeds north ending at Gadsden Point Cut Lighted Buoys ''3'' and ''4''. The safety zone starts again at Gadsden Point Cut Lighted Buoys ''7'' and ''8'' and proceeds north through Hillsborough Cut ''C'', Port Sutton Entrance Channel, and ends at the Port Sutton LPG facility.

(2) For vessels loaded with LPG and bound for the LPG receiving terminal in Rattlesnake the safety zone starts at Tampa Bay Cut ''J'' Channel from lighted buoy ''10J'' and proceeds north through Tampa Bay Cut ''K'' Channel to buoy ''11K.'' When a loaded LPG vessel departs the marked channel at Tampa Bay Cut ''K'' buoy ''11K'' enroute to Rattlesnake, Tampa, FL, the floating safety zone extends 500 yards in all directions surrounding the loaded LPG vessel, until it arrives at the entrance to Rattlesnake. While the loaded LPG vessel is maneuvering in the Rattlesnake slip and until it is safely moored at the LPG facility, the floating safety zone extends 150 feet fore and aft of the loaded LPG vessel and the width of the slip. Moored vessels are allowed within the parameters of the 150-foot safety zone.

(b) The floating safety zone is disestablished when the LPG carrier is safely moored at the LPG receiving facility.

(c) For outbound tank vessels loaded with LPG, the safety zone is established

when the vessel departs the terminal and continues through the area described in paragraph (a) of this section.

(d) All vessels over 5000 gross tons intending to pass LPG vessels moored in Port Sutton, and all vessels intending to pass LPG vessels moored in Rattlesnake, must give 30 minutes notice to the LPG vessel so it may take appropriate safety precautions.

(e) The general regulations governing safety zones contained in § 165.23 apply.

(f) The Coast Guard Captain of the Port Tampa will notify the maritime community of periods during which these safety zones will be in effect by providing advance notice of scheduled arrivals and departures of loaded LPG vessels via a marine broadcast Notice to Mariners.

(g) Should the actual time of entry of the LPG vessel into the safety zone vary more than one half (½) hour from the scheduled time stated in the broadcast Notice to Mariners, the person directing the movement of the LPG vessel shall obtain permission from Captain of the Port Tampa before commencing the transit.

(h) Prior to commencing the movement, the person directing the movement of the LPG vessel shall make a security broadcast to advise mariners of the intended transit. All additional security broadcasts as recommended by the U.S. Coast Pilot 5, ATLANTIC COAST, shall be made throughout the transit.

(i) Vessels carrying LPG are permitted to enter and transit Tampa Bay and Hillsborough Bay and approaches only with a minimum of three miles visibility.

(j) The Captain of the Port Tampa may waive any of the requirements of this subpart for any vessel upon finding that the vessel or class of vessel, operational conditions, or other circumstances are such that application of this subpart is unnecessary or impractical for purposes of port safety or environmental safety.

(k) The owner, master, agent or person in charge of a vessel or barge, loaded with LPG shall report, at a minimum, the following information to the Captain of the Port Tampa at least twenty-four (24) hours before entering Tampa Bay, its approaches, or departing Tampa Bay:

(1) The name and country of registry of the vessel or barge;

(2) The name of the port or place of departure;

(3) The name of the port or place of destination;

(4) The estimated time that the vessel is expected to begin its transit of Tampa Bay and the time it is expected to commence its transit of the safety zone(s); and

(5) The cargo carried and amount.

Dated: February 6, 2001.

A.L. Thompson, Jr.,

Captain, U.S. Coast Guard, Captain of the Port, Tampa, Florida.

[FR Doc. 01–6220 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–026]

RIN 2115–AA97

Safety Zone: Fireworks Display, East River, New York, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for a fireworks display located on the East River. This action is necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the East River.

DATES: This rule is effective from 9 p.m. (e.s.t.) until 10:30 p.m. (e.s.t.) on March 10, 2001. There is no rain date for this event.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket (CGD01–01–026) and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant M. Day, Waterways Oversight Branch, Coast Guard Activities New York (718) 354–4012.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(8), the Coast Guard finds that good cause exists for not publishing an NPRM. Good cause exists for not publishing an NPRM due to the date the Application for Approval of Marine Event was received, there was insufficient time to draft and publish an NPRM. Further, it is a local event with minimal impact on the waterway, vessels may still transit through the eastern 75 yards and the western 480 yards of the 915-yard wide East River during the event, the zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 20 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to close a portion of the waterway and protect the maritime public from the hazards associated with this fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. This is due to the following reasons: it is a local event with minimal impact on the waterway, vessels may still transit through the eastern 75 yards and the western 480 yards of the 915-yard wide East River during the event, the zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 20 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone.

Background and Purpose

The Coast Guard has received an application to hold a fireworks program on the waters of the East River. This regulation establishes a safety zone in all waters of the East River within a 180-yard radius of the fireworks barge in approximate position 40°44′26.5″N 073°57′53.9″W (NAD 1983), about 305 yards southeast of Roosevelt Island Reef Lighted Buoy B (LLNR 27305). The safety zone is in effect from 9 p.m. (e.s.t.) until 10:30 p.m. (e.s.t.) on Saturday, March 10, 2001. There is no rain date for this event. The safety zone prevents vessels from transiting a portion of the East River and is needed to protect boaters from the hazards associated with fireworks launched from a barge in the area. Marine traffic will still be able to transit through the eastern 75 yards and the western 480 yards of the 915-yard wide East River during this event. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Public notifications will be made prior to the event via the Local Notice to Mariners and Marine Information Broadcasts.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the minimal time that vessels will be restricted from the zone, that vessels may still transit through the eastern 75 yards and western 480 yards of the 915-yard wide East River during the event, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone, and advance notifications which will be made.

The size of this safety zone was determined using National Fire Protection Association and New York City Fire Department standards for 6'' mortars fired from a barge combined with the Coast Guard's knowledge of tide and current conditions in the area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises 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.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the East River during the times this zone is activated.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons. It is a local event with minimal impact on the waterway, vessels may still transit through the eastern 75 yards and western 480 yards of the 915-yard wide East River during the event, the zone is only in effect for 1½ hours and vessels can be given permission to transit the zone except for about 20 minutes during this time. Additionally, vessels would not be precluded from mooring at or getting underway from commercial or recreational piers in the vicinity of the zone. Before the effective period, public notifications will be made via Local Notice to Mariners and Marine Information Broadcasts, which are widely available to users of the river.

Collection of Information

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

Federalism

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

Unfunded Mandates

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

We have analyzed this rule under Executive Order 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

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This rule fits paragraph 34(g) as it establishes a safety zone. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

Regulation

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–026 to read as follows:

§ 165.T01–026 Safety Zone: Fireworks Display, East River, New York, NY.

(a) *Location.* The following area is a safety zone: All waters of the East River within a 180-yard radius of the fireworks barge in approximate position 40°44′26.5″N 073°57′53.9″W (NAD 1983), about 305 yards southeast of Roosevelt Island Reef Lighted Buoy B (LLNR 27305).

(b) *Effective period.* This section is effective from 9 p.m. (e.s.t.) until 10:30 p.m. (e.s.t.) on March 10, 2001. There is no rain date for this event.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: March 1, 2001.

P.A. Harris,

Captain, U.S. Coast Guard, Captain of the Port, New York, Acting.

[FR Doc. 01–6221 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WA–72–7147a; FRL–6938–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Washington

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) approves the maintenance plan and request for redesignation from nonattainment to attainment for three Washington areas in the Puget Sound region, (Kent, Seattle, and Tacoma) that are currently designated nonattainment for suspended particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers (PM–10).

DATES: This direct final rule is effective on May 14, 2001 without further notice, unless EPA receives adverse comment by April 12, 2001. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be addressed to: Debra Suzuki, SIP Manager, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the State's maintenance plan and redesignation request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Washington Department of Ecology, 300 Desmond Drive, PO Box 47600, Olympia, Washington 98504–7600.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington, 98101, (206) 553–0782.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Summary of Action
II. Supplementary Information
1. What is the purpose of this rulemaking?
2. What is a State Implementation Plan?
3. What National Ambient Air Quality Standards are considered in today's rulemaking?
4. What are the air quality characteristics of the areas?
5. What is the background information for this action?
6. What criteria did EPA use to review the redesignation request and maintenance plan?
7. How does the State show that the areas have attained the PM–10 National Ambient Quality Standard?
8. Do the nonattainment areas have a fully approved nonattainment SIPs?
9. Are the improvements in air quality which warrant this redesignation permanent and enforceable?
10. Has the State met all the Section 110 and Part D requirements applicable to this nonattainment area?
11. How does the State meet Section 110 requirements?
12. How does the State meet Part D requirements?
13. How does the State meet the Section 172(c) plan provisions requirements?
14. How does the State meet Subpart 4 requirements?
15. Has the State submitted a fully approvable maintenance plan for the Kent, Seattle and Tacoma PM–10 areas?
16. How has the State met the attainment year emission inventory requirement?
17. How does the State demonstrate maintenance of the PM–10 standard in the future?
18. How will the State monitor air quality to verify continued attainment?
19. What contingency plan will the State rely upon to correct any future violation of the NAAQS?
20. How does this action affect Transportation Conformity?
21. What is the motor vehicle emissions budget for Kent, Seattle, and Tacoma areas?
22. In summary, what conclusion has EPA reached and what is it doing in this action?
III. Final Action
IV. Administrative Requirements

I. Summary of Action

On August 23, 1999, the State of Washington submitted a maintenance plan for the Kent, Seattle, and Tacoma PM–10 nonattainment areas as well as a request for redesignation of these areas from nonattainment to attainment. This maintenance plan was prepared by the Puget Sound Clean Air Agency (PSCAA), submitted to the Washington State Department of Ecology, adopted by the State, and submitted by the Department of Ecology to EPA. EPA is approving the maintenance plan for these areas and redesignating the areas from nonattainment to attainment for PM–10.

EPA is publishing this rule without prior proposal because the Agency views this action as noncontroversial and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is concurrently publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective May 14, 2001 without further notice unless the Agency receives adverse comments by April 12, 2001.

If the EPA receives such comments, then EPA will publish a Federal Register document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on May 14, 2001 and no further action will be taken on the proposed rule.

II. Supplementary Information

1. What Is the Purpose of This Rulemaking?

This rulemaking announces two actions being taken by EPA related to air quality in the State of Washington. These actions are taken at the request of the Governor of Washington in response to Clean Air Act (Act) requirements and EPA regulations.

First, EPA approves the PM–10 maintenance plan for the Kent, Seattle, and Tacoma PM–10 nonattainment areas and incorporates this plan into the Washington State Implementation Plan (SIP).

Second, EPA redesignates Kent, Seattle, and Tacoma, Washington from nonattainment to attainment for PM–10. This redesignation is based on valid monitoring data and projections of ambient air quality made in the maintenance plan's demonstration. EPA believes the area will continue to meet the National Ambient Air Quality Standards (NAAQS) for PM–10 for at least ten years beyond this redesignation, as required by the Act.

2. What Is a State Implementation Plan?

The Clean Air Act requires states to attain and maintain ambient air quality equal to or better than standards that provide an adequate margin of safety for public health and welfare. These ambient air quality standards are established by EPA and known as the National Ambient Air Quality Standards, or NAAQS.

The state's commitments for attaining and maintaining the NAAQS are outlined in the State Implementation Plan (or SIP) for that state. The SIP is a planning document that, when implemented, is designed to ensure the achievement of the NAAQS. Each state currently has a SIP in place, and the Act

requires that SIP revisions be made periodically as necessary to provide continued compliance with the standards.

SIPs include, among other things, the following: (1) An inventory of emission sources; (2) statutes and regulations adopted by the state legislature and executive agencies; (3) air quality analyses that include demonstrations that adequate controls are in place to meet the NAAQS; and (4) contingency measures to be undertaken if an area fails to attain the standard or make reasonable progress toward attainment by the required date.

The state must make the SIP available for public review and comment through a public hearing, it must be adopted by the state, and submitted to EPA by the Governor or his appointed designee. EPA takes federal action on the SIP submittal thus rendering the rules and regulations federally enforceable. The approved SIP serves as the state's commitment to take actions that will reduce or eliminate air quality problems. Any subsequent revisions to the SIP must go through the formal SIP revision process specified in the Act.

Washington submitted their original SIP on January 28, 1972, and it was approved by EPA soon thereafter. Other SIP revisions have been submitted over the intervening years and likewise have been approved. The maintenance plan and redesignation request for Kent, Seattle, and Tacoma, that is the subject of this action, was prepared by the Puget Sound Clean Air Agency (PSCAA), the local air pollution control agency with primary regulatory authority over most sources in these areas. The State of Washington retains primary regulatory jurisdiction over kraft pulp mills and aluminum smelters. PSCAA submitted the maintenance plan to the Washington Department of Ecology. The State subsequently submitted it to EPA on August 23, 1999, as a revision to the SIP.

3. What National Ambient Air Quality Standards Are Considered in Today's Rulemaking?

Particulate matter with an aerodynamic diameter of less than 10 micrometers (PM–10) is the pollutant that is the subject of this action. The NAAQS are safety thresholds for certain ambient air pollutants set by EPA to protect public health and welfare. PM–10 is among the ambient air pollutants for which EPA has established a health-based standard.

PM–10 causes adverse health effects by penetrating deep in the lung, aggravating the cardiopulmonary system. Children, the elderly, and people with asthma and heart conditions are the most vulnerable.

On July 1, 1987 (52 FR 24634), EPA revised the NAAQS for particulate matter with an indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. (See 40 CFR 50.6).

The 24-hour primary PM–10 standard is 150 micrograms per cubic meter (ug/m^3), with no more than one expected exceedance per year. The annual primary PM–10 standard is 50 ug/m^3 as an expected annual arithmetic mean. The secondary PM–10 standards, promulgated to protect against adverse welfare effects, are identical to the primary standards.

4. What Are the Air Quality Characteristics of the Areas?

Kent

The Kent nonattainment area is located approximately 15 miles south of Seattle, Washington, and is an area comprised of commercial, light industrial and residential development. Motor vehicle exhaust and residential wood combustion are the largest sources of PM–10 in the nonattainment area, each category contributing approximately 40% of the mass on days of high concentration. Fugitive dust comprises approximately 16% of the measured PM–10 mass. Sulfate and marine aerosol account for the remaining 4%. All other sources are considered insignificant.

Air quality has been monitored in the Kent area since 1988 using federal reference or equivalent methods. No violations of the 24-hour or annual PM–10 standards have ever been recorded in the nonattainment area since monitoring began in 1988. The Kent PM–10 nonattainment plan, approved on July 27, 1993, (58 FR 40059) identifies a 24-hour concentration of 125 ug/m^3 as the 1991 attainment year concentration. The current 1994 24-hour design value based on 1993 through 1995 measured air quality data is 76 ug/m3. The 24-hour design value in the year 2010 is projected to be 70 ug/m^3 based on continued reductions in emissions from the attainment year. Because the health based 24-hour standard is set at 150 ug/m^3, this data clearly shows that the Kent area continues to attain, and will maintain, the PM–10 NAAQS.

Seattle

The Seattle nonattainment area is comprised of the Duwamish industrial and commercial area immediately south of the downtown district and includes the Port of Seattle. Emissions primarily come from industrial sources (83%) with a minor amount of emissions from diesel exhaust (8%) and gasoline fueled motor vehicles (4%). All remaining sources are insignificant.

Exceedences of the 24-hour PM–10 NAAQS were recorded in 1988. The maximum 24-hour concentration reported was 178 ug/m3. This information was sufficient at the time for designation as nonattainment by operation of law upon enactment of the Clean Air Act Amendments of 1990. No exceedence of the 24-hour or annual PM–10 NAAQS has been recorded since 1988 using federal reference or equivalent methods. The 1994 design value using 1993 though 1995 measured air quality data is 117 ug/m3. With minor projected emission reductions of 3%, the predicted design value in 2010 is 115 ug/m3.

Tacoma

The Tacoma PM–10 nonattainment area is comprised of the industrial area of Tacoma, including the Port of Tacoma, a kraft pulp mill, an aluminum smelter, forest product operations, and other industrial operations. Industry accounts for 92% of emissions in the area, with diesel exhaust the next most significant source at 3%.

There are three ambient monitoring sites for PM–10 in the Tacoma nonattainment area. The Fire Station #12 site measures the highest concentrations in the area. In 1990, a 24-hour PM–10 level of 186 ug/m3 was reported. There have been no exceedences of the 24-hour PM–10 NAAQS in the Tacoma area since 1991. The 1994 design value using measured air quality data from 1993 through 1995 is 95 ug/m3. With a projected 3.7% increase in emissions between 1994 and 2010, the predicted design value for 2010 is 97 ug/m3, well below the level of the 24-hour PM–10 NAAQS.

There have been no exceedences of the annual PM–10 standard since 1988.

5. What Is the Background Information for This Action?

All three areas were designated as moderate PM–10 nonattainment areas upon enactment of the Clean Air Act Amendments of 1990 (November 15, 1990) and the boundaries were specified in the **Federal Register** of March 15, 1991 (56 FR 11101).

Title I, section 107(d)(3)(D) of the Act as explained in detail in the General Preamble to Title I (57 FR 13498 (April 16, 1992) hereafter referred to as the General Preamble), allows the Governor of a State to request the redesignation of an area from nonattainment to attainment. On August 23, 1999, the

State submitted a maintenance plan and redesignation request for the Kent, Seattle, and Tacoma PM–10 nonattainment areas.

6. What Criteria Did EPA Use To Review of the Redesignation Request and Maintenance Plan?

The criteria used to review the maintenance plan and redesignation request are derived from the Act, the General Preamble, and the following policy and guidance memorandum from John Calcagni, September 4, 1992, *Procedures for Processing Requests to Redesignate Areas to Attainment.* Section 107(d)(3)(E) of the Act states that the EPA can be redesignate an area to attainment if the following conditions are met:

1. The Administrator has determined the area has attained the NAAQS.
2. The Administrator has fully approved the applicable implementation plan under section 110(k).
3. The Administrator has determined that the improvement in air quality is due to permanent and enforceable reductions in emissions.
4. The state has met all applicable requirements for the area under section 110 and part D.
5. The Administrator has fully approved a maintenance plan, including a contingency plan, for the area under section 175A.

7. How Does the State Show That the Areas Have Attained the PM–10 National Ambient Air Quality Standard?

Demonstrating that an area has attained the PM–10 NAAQS involves submittal of ambient air quality data from an ambient air monitoring network representing peak PM–10 concentrations, which should be stored in the EPA Aerometric Information Retrieval System (AIRS). The area has attained the 24-hour standard when the average number of expected exceedances per year is less than or equal to one, when averaged over a three year period. (40 CFR 50.6) To make this determination, three consecutive years of complete ambient air quality data must be collected in accordance with federal requirements (40 CFR part 58, including appendices).

Kent

Kent has one ambient air quality monitoring station located near the intersection of James Street and Central Avenue. This site is located in the highest density development and measures maximum PM–10 levels in the area. The site has monitored PM–10 beginning in 1988 to the present. There have been no recorded exceedences of either the annual or 24-hour PM–10 NAAQS in the area.

The area has attained both the annual and 24-hour PM–10 NAAQS.

Seattle

The Seattle PM–10 nonattainment area has three PM–10 monitoring sites. The site at 4752 E. Marginal Way S. measures the highest PM–10 concentrations in the area. It is located just south of the largest PM–10 sources in the area. The last recorded exceedences of the 24-hour standard were measured in 1988 (there were two exceedences) with the highest concentration being 178 ug/m3.

There is no recorded violation of the annual PM–10 NAAQS in Seattle.

The area has attained both the annual and 24-hour PM–10 NAAQS.

Tacoma

The Tacoma PM–10 nonattainment area has three PM–10 monitoring sites. The site at Fire Station #12 measures the highest PM–10 concentrations in the area. The last recorded exceedence of the 24-hour standard was measured in 1990 with a concentration of 186 ug/m3.

There is no recorded violation of the annual PM–10 NAAQS in Tacoma.

The area has attained both the annual and 24-hour PM–10 NAAQS.

8. Do the Nonattainment Areas Have Fully Approved Nonattainment SIPs?

Yes. Those States containing initial moderate PM–10 nonattainment areas were required to submit a SIP by November 15, 1991, which implemented reasonably available control measures (RACM) by December 10, 1993, and demonstrated attainment of the PM–10 NAAQS by December 31, 1994. The SIP for the area must be fully approved under section 110(k) of the Act, and must satisfy all requirements that apply to the area.

Kent

On July 27, 1993 (58 FR 40059) EPA approved the Kent PM–10 nonattainment area SIP.

Seattle

On June 23, 1994, EPA conditionally approved the PM–10 SIP for Seattle. See 59 FR 32370. This conditional approval was contingent upon the State providing a demonstration of attainment using allowable emissions from permitted industrial sources. In order to provide this demonstration, the PSCCA established emission limits for sources under its jurisdiction. These limits were established and the State provided EPA documentation of these limits and a revised attainment demonstration on May 11, 1995. There are no sources in the Seattle area for which the Department of Ecology has primary regulatory authority. On October 26, 1995, EPA fully approved the nonattainment area SIP for Seattle. See 60 FR 54812.

Tacoma

On October 12, 1994, (59 FR 51506) EPA conditionally approved the PM–10 nonattainment SIP for Tacoma. This conditional approval was based on the lack of enforceable emission limits on the industrial sources in the Tacoma PM–10 nonattainment area (i.e., the SIP failed to provide for RACM including reasonably available control technology (RACT), an adequate demonstration of attainment based on allowable emissions, and quantative milestones and reasonable further progress).

Upon receiving further submissions from the Department of Ecology, on October 25, 1995, EPA fully approved the PM–10 nonattainment SIP for Tacoma. See 60 FR 54599.

9. Are the Improvements in Air Quality Which Warrant This Redesignation Permanent and Enforceable?

Yes. The State must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, the State must demonstrate that air quality improvements are the result of actual enforceable emission reductions. This showing should consider emission rates, production capacities, and other related information. The analysis should assume that sources are operating at permitted levels (or historic peak levels) unless evidence is presented that such an assumption is unrealistic.

As discussed above, PSCAA is the local agency that regulates emissions from most sources in the three nonattainment areas. The maintenance plan was prepared by PSCAA and submitted to the Washington Department of Ecology. Air pollution rules and regulations promulgated by the PSCAA apply to all areas within their four county jurisdiction of King, Snohomish, Kitsap, and Pierce counties. The Kent, Seattle, and Tacoma nonattainment areas are all located within the PSCAA jurisdiction. The control measures and emission reduction programs implemented by PSCAA and discussed in this notice likewise apply to all three nonattainment areas.

PSCAA demonstrated that the air quality improvements are the result of

permanent enforceable emission reductions and not a result of either economic trends or meteorology. The first demonstration is based on vehicle miles traveled (VMT) in each nonattainment area as compared to the region-wide trends. Between 1986 and 1994 VMT increased in the nonattainment areas from 32 to 43 percent depending on the area. This compares with the regional increase of 43 percent. Therefore, though there was an increase in VMT, air quality continued to improve. See the Technical Support Document accompanying this notice for additional detail.

An analysis of meteorological conditions over the time period of the measured high PM–10 levels of the late 1980's, shows that conditions were consistent with conditions in the early 90's. Dr. Halstead Harrison, Professor of Meteorology at the University of Washington, presented this analysis to the PSCAA September 12, 1994. His analysis showed that light scattering properties of the atmosphere improved by about two thirds and that this improvement was attributable to reduced emissions, while at the same time meteorology contributed approximately 2 percent of this improvement.

Therefore, the conclusion is that neither economic trends nor meteorology significantly contributed to the improvement in measured air quality. PSCAA continues their showing with a discussion of their regulatory programs for residential wood smoke, fugitive dust, industrial source controls, open burning, and programs applicable to diesel exhaust. These are briefly discussed below.

Wood Smoke Program: The PSCAA and the State of Washington initiated a wood smoke program in 1987 with revisions to State Law banning the sale of uncertified wood stoves, establishing opacity limitations, prohibiting the burning of certain fuels, and establishing a curtailment program. Revisions to the program have been made at various times to incorporate mandatory curtailment provisions, enforcement capabilities, more stringent opacity limitations, and reduced trigger points for burn bans. Two studies were conducted to estimate emission reductions from the program. Dr. Harrison, from the University of Washington, estimates emission reductions of 25 to 35 percent on days when a curtailment is in effect. A Lawerence Livermore National Laboratory study estimates reductions on the order of 37%. EPA has previously determined the PSCAA program to be RACM by approval of the nonattainment area SIP for each area. For Kent see 58 FR 40059 (July 27, 1993), for Seattle see 59 FR 32370 (June 23, 1994) and 60 FR 54812 (October 26, 1995) and for Tacoma see 59 FR 51506 (October 12, 1994) and 60 FR 54599 (October 25, 1995).

Kent is the only area of the three for which residential wood smoke emissions are significant. In Kent, projected 2010 residential wood smoke emissions will account for approximately 66% of total area PM–10 emissions.

Fugitive Dust: PSCAA adopted regulations that require open fugitive dust sources, including dust from unpaved roads, staging areas, and parking lots to employ best available control technology (BACT). Implementation of these requirements has resulted in numerous (over 500) notices of violation throughout the PSCAA jurisdiction. EPA has previously determined in the approval of the nonattainment area plan that these fugitive dust regulations represented RACM. For Kent see 58 FR 40059 (July 27, 1993), for Seattle see 59 FR 32370 (June 23, 1994) and 60 FR 54812 (October 26, 1995) and for Tacoma see 59 FR 51506 (October 12, 1994) and 60 FR 54599 (October 25, 1995).

Fugitive dust is an insignificant source of particulate matter in all three nonattainment areas as presented in both the 1994 and projected 2010 emission inventory.

Industrial Source Controls: Industrial sources contribute significantly to emissions in the Seattle and Tacoma nonattainment areas and insignificantly in the Kent area. Significant reductions in emissions have been achieved through the retirement and shutdown of processes and sources in these two areas. Emission credits have been confiscated from trading banks. Emission limitations have been established for all permitted sources in the Seattle and Tacoma areas. The State of Washington has issued regulatory orders, which contain enforceable emission limitations, to the sources in the Seattle and Tacoma area that remain under their regulatory jurisdiction. EPA has previously approved these emission limits as representing RACT for the industrial sources in the approval of the nonattainment area SIPs. For Kent see 58 FR 40059 (July 27, 1993), for Seattle see 59 FR 32370 (June 23, 1994) and 60 FR 54812 (October 26, 1995) and for Tacoma see 59 FR 51506 (October 12, 1994) and 60 FR 54599 (October 25, 1995).

Diesel Programs: Emission reductions have occurred as a result of Federal motor vehicle emission control programs. These reductions are the result of reduction in the sulfur content of diesel fuel from 0.5 percent to 0.05 percent by weight as of October 1, 1993. In addition, EPA recently promulgated rules limiting the amount of sulfur in gasoline. See 65 FR 6697 (February 10, 2000). While sulfur and sulfur dioxide are not particulate when emitted into the atmosphere, sulfur dioxide is a precursor to the formation of secondary aerosol. Secondary aerosol is particulate matter formed through chemical reactions in the atmosphere from emissions of precursor gases. Thus, a reduction in sulfur in gasoline and resulting sulfur dioxide emissions will reduce particulate loading in the atmosphere from secondary aerosol.

The State of Washington also requires that heavy duty vehicles registered in the Puget Sound region pass a ''snap idle'' test in which exhaust opacity is measured while the vehicle is subjected to heavy acceleration. Vehicles which fail the test must be repaired and pass the test before they can be registered for operation.

These emission reductions are not considered in the demonstration of maintenance in the maintenance plans for these areas.

Open Burning: Open burning is not a significant source of particulate matter in the Kent, Seattle, and Tacoma nonattainment areas. In 1991, the Washington Clean Air Act was amended to prohibit land clearing and yard debris waste fires within either PM–10 or carbon monoxide (CO) nonattainment areas. The area of this ban was expanded in 1995 to include the newly defined urban growth areas. The ban will continue after the areas are redesignated to attainment.

10. Has the State Met All the Section 110 and Part D Planning Requirements Applicable to This Nonattainment Area?

Yes. The September 1992 Calcagni memorandum directs states to meet all of the applicable section 110 and part D planning requirements for redesignation purposes. Thus, EPA interprets the Act to require state adoption and EPA approval of the applicable programs under section 110 and part D that were due prior to the submittal of a redesignation request, before EPA may approve a redesignation request. How the State has met these requirements is discussed in detail below.

11. How Does the State Meet Section 110 Requirements?

Section 110(a)(2) of the Act contains general requirements for nonattainment plans. These requirements include, but

are not limited to, submittal of a SIP that has been adopted by the State after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C—Prevention of Significant Deterioration (PSD) and Part D—New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, provisions for modeling, and provisions for public and local agency participation. See the General Preamble for further explanation of these requirements.

For purposes of redesignation, the Washington SIP was reviewed to ensure that all requirements under the Act were satisfied. 40 CFR 52.2473 further provides evidence that the Washington SIP was approved under section 110 of the Act and found to satisfy all part D, Title I requirements.

12. How Does the State Meet Part D Requirements?

Part D consists of general requirements applicable to all areas which are designated nonattainment based on a violation of the NAAQS. The general requirements are followed by a series of subparts specific to each pollutant. All PM–10 nonattainment areas must meet the applicable general provisions of Subpart 1 and the specific PM–10 provisions in subpart 4, ''Additional Provisions for Particulate Matter Nonattainment Areas.'' The following paragraphs discuss these requirements as they apply to the Kent, Seattle, and Tacoma areas.

13. How Does the State Meet the Section 172(c) Plan Provisions Requirements?

Section 172(c) contains general requirements for nonattainment plans. A thorough discussion of these requirements may be found in the General Preamble. EPA anticipates that areas will already have met most or all of these requirements to the extent that they are not superseded by more specific part D requirements. The requirements for reasonable further progress, identification of certain emissions increases, and other measures needed for attainment will not apply to redesignations because they only have meaning for areas not attaining the standard. The requirements for an emission inventory will be satisfied by the inventory requirements of the maintenance plan. The requirements of the part D New Source Review (NSR) program will be replaced by the Prevention of Significant Deterioration (PSD) program upon the effective date of this redesignation. The Federal PSD regulations found at 40 CFR 52.21 are the PSD rules in effect in Washington.

14. How Does the State Meet Subpart 4 Requirements?

The Kent, Seattle, and Tacoma areas are classified as moderate nonattainment areas. Therefore, part D, subpart 4, section 189(a) requirements apply. The requirements which came due prior to the submission of the request to redesignate the areas must be fully approved into the SIP before redesignating the area to attainment.

These requirements are discussed below:

(a) Provisions to assure that RACM shall be implemented by December 10, 1993;

(b) Either a demonstration that the plan will provide for attainment as expeditiously as practicable but no later than December 31, 1994, or a demonstration that attainment by that date is impracticable;

(c) Quantitative milestones which are to be achieved every 3 years and which demonstrate reasonable further progress (RFP) toward attainment by December 31, 1994; and

(d) Provisions to assure that the control requirements applicable to major stationary sources of PM–10 also apply to major stationary sources of PM–10 precursors except where the Administrator determines that such sources do not contribute significantly to PM–10 levels which exceed the NAAQS in the area.

As previously stated, EPA approved the PM–10 SIPs for these areas. Each SIP met the initial requirements of the 1990 amendments for moderate PM–10 nonattainment areas (for Kent on July 27, 1993, (58 FR 40059), for Seattle on October 26, 1995, (60 FR 54812) and for Tacoma October 25, 1995 (60 FR 54599)). Other provisions were due at a later date.

States with initial PM–10 nonattainment areas were required to submit a permit program for the construction and operation of new and modified major stationary sources of PM–10 by June 30, 1992. States also were to submit contingency measures by November 15, 1993, which become effective without further action by the State or EPA, upon a determination by EPA that the area has failed to achieve RFP or to attain the PM–10 NAAQS by the applicable statutory deadline. See sections 172(c)(9) and 189(a) and 57 FR 13543–13544.

The State has presented an adequate demonstration that it has met the requirements applicable to the area under section 110 and part D. EPA approved Washington State's NSR regulations effective June 2, 1995. Contingency measures as required by the Act, specify measures that are to be undertaken if the area fails to make reasonable further progress or fails to attain the national primary ambient air quality standard by the applicable attainment date. All three areas have attained the national primary ambient air quality standard by the applicable attainment date. Therefore, contingency measures no longer are required under section 172(c)(9) of the Act. Contingency measures are also required for maintenance plans under section 172A(d). The State of Washington has provided in their maintenance plan for the Kent, Settle, and Tacoma, a contingency measure to meet this requirement. The contingency measure in the maintenance plan is discussed below.

15. Has the State Submitted a Fully Approvable Maintenance Plan for the Kent, Seattle and Tacoma PM–10 Areas?

Yes. Section 107(d)(3)(E) of the Act stipulates that for an area to be redesignated, EPA must fully approve a maintenance plan which meets the requirements of section 175A. Section 175A defines the general framework of a maintenance plan, which must provide for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation. The following is a list of core provisions required in an approvable maintenance plan.

(a) Plan revision: The maintenance plan must provide for the maintenance of the NAAQS for ten years beyond redesignation.

(b) Subsequent plan revisions: Eight years after redesignation, the maintenance plan must provide for additional revisions as needed to maintain the standard for an additional ten years.

(c) Nonattainment requirements applicable pending plan approval: All provisions and controls in place as part of the nonattainment plan must be implemented until final redesignation to attainment.

(d) Contingency provisions: The maintenance plan must include contingency control measures which will go into effect automatically to correct any future violation of the NAAQS. These provisions must include a requirement that the State will implement all measures contained in the nonattainment area SIP.

16. How Has the State Met the Attainment Year Inventory Requirement?

The State should develop an attainment year emissions inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. Where the State has made an adequate demonstration that air quality has improved as a result of the SIP, the attainment inventory will generally be an inventory of actual emissions at the time the area attained the standard. This inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include the emissions during the time period associated with the monitoring data showing attainment.

For the Kent, Seattle, and Tacoma maintenance plan, updated, gridded based year (1994) and future year (2010) emission inventories were compiled to show emission levels consistent with attainment and continued maintenance of the PM–10 standard. The inventory of allowable emissions contained in the plan provides an adequate basis for approving the plan.

The State has developed an adequate attainment emissions inventory for 1994 that identifies the levels of emissions of PM–10 in the area that are consistent with the federally approved demonstration of attainment of the NAAQS contained in the original nonattainment area SIPs.

17. How Does the State Demonstrate Maintenance of the PM–10 Standard in the Future?

A State may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future anticipated mix of sources and emission rates will not cause a violation of the NAAQS. Under the Act, PM–10 areas were required to submit modeled attainment demonstrations to show that proposed reductions in emissions will be sufficient to attain the applicable NAAQS. For these areas, the maintenance demonstration should be based upon the same level of modeling.

For Tacoma and Kent, the attainment demonstration in the original nonattainment area SIP was based on proportional rollback modeling in which future air quality is assumed to be directly proportional to the area-wide decrease in emissions. In the case of Seattle, the attainment demonstration in the original nonattainment area SIP was based on a combination of Regional Air Model (RAM) and WYNDvalley dispersion modeling. In the maintenance plan, the demonstration of maintenance for all three areas is based on proportional rollback modeling in which future projected air quality is assumed to be directly proportional to the area-wide increase (or decrease) in emissions.

After careful review and analysis of the attainment demonstration and after conducting additional analysis of the specific situation for each area, EPA has determined that the plan is adequate to maintain the PM–10 standards through 2010 in Kent, Seattle, and Tacoma. See the Technical Support Document accompanying this notice for further detail.

18. How Will the State Monitor Air Quality To Verify Continued Attainment?

Once an area has been redesignated, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. In its submittal, the PSCAA commits to continue to operate and maintain the network of PM–10 monitoring stations necessary to verify ongoing compliance with the PM–10 NAAQS.

19. What Contingency Plan Will the State Rely Upon To Correct any Future Violation of the NAAQS?

Section 175A of the Act also requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation. These contingency measures are distinguished from those generally required for nonattainment areas under section 172(c)(9) which are discussed above. However, if the contingency measures in a nonattainment SIP have not been implemented at the time the area is redesignated to attainment and the contingency measures included a requirement that they be implemented prior to redesignation, then they can be carried over into the area's maintenance plan.

The contingency measure contained in the Kent, Seattle, and Tacoma maintenance plan would address residential woodsmoke emissions should a violation of the PM–10 NAAQS be recorded. Under this measure (RCW 70.94.477(2) and section 13.07 of PSCAA Regulation I), PSCAA will ban the use of uncertified wood burning devices in the maintenance area.

20. How Does This Action Affect Transportation Conformity?

Under section 176(c) of the Act, transportation plans, programs, and projects in nonattainment or maintenance areas that are funded or approved under the Federal Transit Act, must conform to the applicable SIPs. In short, a transportation plan is deemed to conform to the applicable SIP if the emissions resulting from implementation of that transportation plan are less than or equal to the motor vehicle emission level established in the SIP for the maintenance year and other analysis years.

In this maintenance plan, procedures for estimating motor vehicle emissions are well documented. The maintenance plan includes a motor vehicle emissions budget which can be used in conformity determinations for PM–10 on future Transportation Improvement Programs and Regional Transportation Plans.

21. What Is the Motor Vehicle Emissions Budget for the Kent, Seattle, and Tacoma Areas?

Transportation conformity determinations must be consistent with the motor vehicle emissions budgets for Kent, Seattle and Tacoma of 105, 383, and 209 kilogram of PM–10 per day, respectively. These mobile source emissions represent a combination of vehicle exhaust, tire wear, and road dust. The maintenance plan does distinguish between motor vehicle exhaust emissions and road dust emissions.

22. In Summary, What Conclusion Has EPA Reached and What Is it Doing in This Action?

EPA has reviewed the maintenance plan as a revision to the Washington SIP and the adequacy of the State's request to redesignate the Kent, Seattle, and Tacoma PM–10 nonattainment areas to attainment. EPA finds that the submittal sufficiently meets the requirements for redesignation requests. Therefore, the EPA approves Washington's redesignation request for the Kent, Seattle, and Tacoma PM–10 areas and approves the maintenance plan as a revision to the Washington SIP.

III. Final Action

EPA approves the PM–10 maintenance plan for the Kent, Seattle, and Tacoma, Washington PM–10 nonattainment areas and redesignates the areas from nonattainment to attainment for PM–10.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under Section 110 and Subchapter I, Part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Additionally, redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in

estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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 the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective May 14, 2001 unless EPA receives adverse written comments by April 12, 2001.

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 14, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, and Wilderness areas.

Note: Incorporation by reference of the Implementation Plan for the State of Washington was approved by the Director of the Office of Federal Register on July 1, 1982.

Dated: December 11, 2000.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

Parts 52 and 81, Chapter I, Title 40 of the Code of Federal Regulations are 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 WW—Washington

2. Section 52.2470 is amended by adding paragraph (c)(81) to read as follows:

§ 52.2470 Identification of plan.

* * * * *

(c) * * *

(81) On August 23, 1999, the Washington State Department of Ecology requested the redesignation of Kent, Seattle, and Tacoma PM–10 nonattainment areas to attainment of the National Ambient Air Quality Standard for particulate matter. EPA approves the State's PM–10 maintenance plan for Kent, Seattle, and Tacoma and request for redesignation to attainment.

(i) Incorporation by reference.

(A) Revised Code of Washington (RCW) 70.94.477(2), dated 1995.

(B) RCW 70.94.457, dated 1995.

(ii) Additional Material.

(A) August 23, 1999, letter from Washington State Department of Ecology to EPA Region 10 submitting the PM–10 maintenance plan for Kent, Seattle, and Tacoma nonattainment areas of Washington.

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

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

§ 81.348 [Amended]

2. In § 81.348, the table entitled ''Washington—PM–10'' is amended by revising the three entries for King County—''The portion of the City of Seattle'', King County—''The City of Kent'', and Pierce County—''Tacoma metropolitan area'' to read as follows.

* * * * *

WASHINGTON—PM–10

Designated area	Designation		Classification	
	Date	Type	Date	Type
King County:				
The portion of the City of Seattle bounded on the east by I–5/East Duwamish Greenbelt, on the south by 104th street, on the west by the West Duwamish Greenbelt north to Fairmont Avenue, S.W., north on Fairmont Avenue to Elliot Bay, and Dearborn Street to I–5.	May 14, 2001	Attainment.		
The City of Kent and a portion of the Green River valley bounded on the east and west by the 100 foot contour, on the north by South 212th Street, and on the south by Highway 516.	May 14, 2001	Attainment.		
Pierce County:				

WASHINGTON—PM–10—Continued

Designated area	Designation		Classification	
	Date	Type	Date	Type
Tacoma metropolitan area bounded on the north by Marine View Drive from Commencement Bay east to the 100 foot contour, southeast along the 100 foot contour to 64th Avenue east, south along 64th Avenue east as extended to I–5, I–5 west to the 100 foot contour near Pacific Avenue, and north along the 100 foot contour to Commencement Bay.	May 14, 2001 ...	Attainment.		
* * *	*	*	*	*

* * * * *

[FR Doc. 01–6082 Filed 3–12–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 697

[Docket No. 001120327–1037–02; I.D. 091800H]

RIN 0648–AO58

American Lobster Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues regulations to modify the management measures applicable to the American lobster fishery. This action exempts black sea bass fishers who concurrently hold limited access lobster and limited access black sea bass permits from the more restrictive gear requirements in the lobster regulations when fishing in Lobster Conservation Management Area 5 (LCMA 5) if they obtain a ''Area 5 Trap Waiver'' category permit. Under this exemption, such fishers are restricted to the non-trap lobster allowance while targeting black sea bass in LCMA 5. This regulation also clarifies that lobster trap regulations do not affect trap gear requirements for fishermen who do not possess a Federal limited access American lobster permit. The intent of these regulations is to relieve restrictions on fishers that were unintended, without compromising lobster conservation goals.

DATES: Effective April 12, 2001.

ADDRESSES: Copies of the Final Environmental Assessment/Regulatory Impact Review (EA/RIR) are available from the Director, State, Federal, and Constituent Programs Office, NMFS, One Blackburn Drive, Gloucester, MA 01930. Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to the same address. Comments regarding the collection of information requirements contained in the final rule should be sent to: the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Robert Ross, NMFS, Northeast Region, 978–281–9234.

SUPPLEMENTARY INFORMATION: A proposed rule for this action was published in the **Federal Register** on December 5, 2000 (65 FR 75916). The comment period closed on December 26, 2000.

Black Sea Bass LCMA 5 Trap Waiver Permit

The black sea bass LCMA 5 trap waiver permit measures contained in this final rule are unchanged from those in the proposed rule. A complete discussion of background issues that led to the development of these measures is contained in the preamble to the proposed rule and is not repeated here. This final rule establishes an American lobster limited access category permit to allow dual permit status vessels—vessels having limited access eligibility in the black sea bass and lobster fisheries—to elect to participate in a program that exempts them from the lobster gear restrictions while targeting black sea bass in LCMA 5 but which limits them to the non-trap lobster allowance. The non-trap allowance is a landing limit of 100 lobsters per day and up to 500 lobsters per trip for trips 5 days or longer.

To be exempt to lobster gear restrictions while targeting black sea bass in LCMA 5, a vessel will obtain an ''Area 5 Trap Waiver'' category permit through the normal permitting process. A vessel with an ''Area 5 Trap Waiver'' category permit will be limited to the non-trap allowance and may only land lobsters in greater numbers by formally canceling the ''Area 5 Trap Waiver'' category permit and switching to the commercial lobster category permit, again through the normal Federal permitting process. Cancellations of the ''Area 5 Trap Waiver'' category permit will be treated administratively as a lobster permit category change and will not result in the loss of limited access eligibility in either the lobster or the black sea bass fisheries. Vessels will be required to comply with the regulations that are appropriate for the target fishery and with the category of permits presently issued.

The creation of this new permit category addresses a common problem in managing overlapping or mixed fisheries. Ideally, conservation restrictions should be tailored as closely as possible to the target fishery; for instance, lobster fishers will be required to comply with the lobster gear restrictions and black sea bass fishers with sea bass restrictions. In mixed fisheries, tailoring becomes more difficult because the least restricted fishery can be used as a loophole for the other; in this case, black sea bass traps can become a loophole in the lobster conservation program. This final rule isolates and prohibits the problematic trips, namely, those that would target lobster with black sea bass traps. Only incidental amounts of lobster could be retained from such trips. These measures preserve the ability to fish in both fisheries in a single year under rules appropriate to the fisher's preferred target and without the loss of limited access status in either fishery. Detection of violations is simplified through the permit mechanism because an agent will need only to compare the observed landings with the rules associated with the permit.

Comments and Responses

There were no comments submitted in response to the proposed rule during the comment period.

Changes From the Proposed Rule

In § 697.26, the word ''lobster'' is removed and the words ''EEZ Nearshore'' were added to maintain consistency with existing text describing lobster management areas in § 697.18.

In § 697.26(b), the word ''Lobster'' in the phrase ''Lobster Management Area 5'' is removed and the words ''EEZ Nearshore'' were added to maintain consistency with existing text describing lobster management areas in § 697.18.

No other changes were made from the proposed rule.

Classification

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be sent to the Director, State, Federal and Constituent Programs Office (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule is published under the authority of the ACFCMA. Section 804(b)(1) of the ACFCMA authorizes the Secretary of Commerce (Secretary) to issue regulations in the EEZ that are compatible with the effective implementation of a coastal fishery management plan and consistent with the national standards set forth in section 301 of the Magnuson-Stevens Act. This authority has been delegated to the Acting Assistant Administrator for Fisheries, NOAA (AA). The AA has determined that these actions are consistent with the national standards of the Magnuson-Stevens Act and compatible with the effective implementation of the ISFMP for American Lobster.

As a result of these lobster management measures in the final rule, black sea bass traps in the waters of Area 5 could increase, compared to the constraints on the number of traps fished in this area undercurrent regulations (imposed in December 1999 and implemented in January 2000). However, there has been no observed takes of ESA or MMPA listed species in the black sea bass trap fishery, and these measures are expected to affect only a small number of fishers. Therefore, this action would not change the basis of the Biological Opinion made on December 17, 1998 or affect any ongoing consultation for this fishery under Section 7 of the ESA.

The measures for an Area 5 Black Sea Bass Trap Waiver fall within the scope of consultations on previous American lobster and Black Sea Bass FMP actions. Given the number of vessels affected by these measures, the limited presence of protected species most susceptible to trap gear (i.e., right whales, humpback whales) in the addition of adverse impacts which would change the basis for the determinations in those consultations. Should activities under this action change or new information become available that changes the basis for this determination, then consultation will be reinitiated.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration, when this rule was proposed that it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding the economic effects of this rule. Accordingly the basis for the certification has not changed.

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 of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection-of-information displays a currently valid Office of Management and Budget (OMB) control number.

This final rule contains collection-of-information requirements subject to the PRA, and modifies (or adds new) collection-of-information requirements previously (approved under OMB control number 0648-0202) (15 minutes per response to initiate a permit category change and select the LCMA 5 Trap Waiver Permit category, 2 minutes per response to return a suspended limited access lobster trap permit, and 15 minutes per response to initiate cancellation of a LCMA 5 Trap Waiver Permit and re-activate a suspended limited access lobster trap permit). The following collection-of-information requirements are being restated and have already been approved by OMB as shown: vessel permit applications approved under OMB control number 0648-0202 with the response times per application of 30 minutes for a new application, and 15 minutes for renewal applications, and a lobster trap tag requirement approved under OMB control number 0648–0351 with a response time of 1 minute per tag.

Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to the Office of Information and Regulatory Affairs (see **ADDRESSES**).

List of Subjects in 50 CFR Part 697

Fisheries, Fishing.

Dated: March 5, 2001.

Clarence G. Pautzke,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 697 is amended as follows:

PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

1. The authority citation for part 697 continues to read as follows:

Authority: 16 U.S.C. 5101 *et seq.*

Subpart A—General Provisions

2. In § 697.2, the definition of ''Trap'' is removed and a definition for ''Lobster trap'' is added to read as follows:

§ 697.2 Definitions.

* * * * *

Lobster trap means any structure or other device, other than a net, that is placed, or designed to be placed, on the ocean bottom and is designed for or is capable of, catching lobsters. Red crab fishing gear, fished deeper than 200 fathoms (365.8 m), and fishing gear fished by a vessel not issued a limited access lobster permit under § 697.4(a), are gear deemed not to be lobster traps for the purpose of this part, and are not subject to the provisions of this part.

* * * * *

3. In § 697.4, paragraph (d)(1) is revised and paragraph (p) is added to read as follows:

§ 697.4 Vessel permits and trap tags.

* * * * *

(d) * * * (1) Beginning fishing year 2000, any lobster trap fished in Federal waters must have a valid Federal lobster trap tag permanently attached to the trap bridge or central cross-member, unless exempt under § 697.26.

* * * * *

(p) Permit category change. A vessel permit category change (for individuals who possess a dual Federal limited access permit for American lobster and black sea bass and who restrict fishing operations to Area 5) may be issued by the Regional Administrator when requested in writing by the owner or by an authorized representative of a vessel meeting the eligibility requirements under § 697.26(a).

4. In § 697.7, paragraphs (c)(1)(vii) through (x) are revised to read as follows:

§ 697.7 Prohibitions.

* * * * *

(c) * * *

(1) * * *

(vii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel trap gear in excess of the trap limits specified in § 697.19 unless exempted pursuant to § 697.26

(viii) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any trap gear that does not satisfy the requirements on gear identification and marking, escape vents, ghost panel and maximum trap size specified in § 697.21, unless such gear has been rendered unfishable, or unless exempted pursuant to § 697.26.

(ix) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any trap gear not tagged in accordance with the requirements in § 697.19, unless such gear has been rendered unfishable, or unless exempted pursuant to § 697.26.

(x) Fail to produce, or cause to be produced, lobster trap tags when requested by an authorized officer, unless exempted pursuant to § 697.26.

* * * * *

Subpart B—Management Measures

5. In § 697.19, paragraph (e) is added to read as follows:

§ 697.19 Trap limits and trap tag requirements for vessels fishing with traps.

* * * * *

(e) *Exemption.* Any vessel issued an Area 5 Trap Waiver permit under § 697.4(p) is exempt from the provisions of this section.

6. In § 697.21, paragraph (g) is added to read as follows:

§ 697.21 Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements.

* * * * *

(g) *Exemption.* Any vessel issued an Area 5 Trap Waiver permit under § 697.4(p) is exempt from the provisions of this section.

7. A new § 697.26 is added to subpart B to read as follows:

§ 697.26 EEZ Nearshore Management Area 5 Trap Waiver.

(a) *Eligibility.* Vessels eligible for limited access lobster permits under § 697.4(a)(1) and limited access black sea bass permits under § 648.4(a)(7)(i) of this chapter may request an Area 5 Trap Waiver Permit, under the procedures described in § 697.4.

(b) *Restrictions.* A vessel issued an Area 5 Trap Waiver permit under this section may engage in trap fishing for black sea bass in EEZ Nearshore Management Area 5 and is exempt from the provisions of § 697.19 and § 697.21 if such fishing is conducted in accordance with all other provisions of this section and all other Federal and state laws and regulations applicable to lobster and black sea bass fishing.

(1) A vessel issued a permit under this section may retain, land and sell an incidental allowance of lobster equal to the non-trap harvest restrictions specified in § 697.17(a).

(2) A vessel issued a permit under this section may not possess on board or deploy bait or baited traps.

[FR Doc. 01–6080 Filed 3–12–01; 8:45 am]

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Proposed Rules

Federal Register
Vol. 66, No. 49
Tuesday, March 13, 2001

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AG67

List of Approved Spent Fuel Storage Casks: HI–STAR 100 Revision

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations by revising the Holtec International HI–STAR 100 cask system listing within the ''List of approved spent fuel storage casks'' to include Amendment No. 2 to the Certificate of Compliance (CoC). Amendment No. 2 revises the HI–STAR 100 cask system Appendix B of the Technical Specifications (TS), Item 1.4.6, ''Specific Parameters and Analysis for the Storage Pad and Foundation'' to simplify the language of this specification. The current 60-g limit for cask drop and tipover events in TS Item 1.4.6 would remain unchanged. This amendment would allow the holders of power reactor operating licenses to store spent fuel in the HI–STAR 100 cask system, as amended, under a general license.

DATES: Comments on the proposed rule must be received on or before April 12, 2001.

ADDRESSES: Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Attention: Rulemakings and Adjudications Staff.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking website *(http://ruleforum.llnl.gov).* This site provides the capability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking website, contact Ms. Carol Gallagher, (301) 415–5905 (e-mail: *cag@nrc.gov*).

Certain documents related to this rule, including comments received by the NRC, may be examined at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. These documents also may be viewed and downloaded electronically via the rulemaking website.

Documents created or received at the NRC after November 1, 1999 are also available electronically at the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of the NRC's public documents. An electronic copy of the proposed CoC and Preliminary Safety Evaluation Report (SER) can be found in ADAMS under Accession No. ML003770774. For more information, contact the NRC Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Stan Turel, telephone (301) 415–6234, e-mail, spt@nrc.gov of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: For additional information see the Direct Final Rule published in the rules section of this **Federal Register**.

Procedural Background

Because NRC considers this action noncontroversial and routine, we are publishing this proposed rule concurrently with a direct final rule. The direct final rule will become effective on May 29, 2001. However, if the NRC receives significant adverse comments on the direct final rule by April 12, 2001, then the NRC will publish a document to withdraw the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action in the event the direct final rule is withdrawn.

List of Subjects In 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR Part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 10d—48b, sec. 7902, 10b Stat. 31b3 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. Section 72.214, Certificate of Compliance (CoC) 1008 is revised to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1008.
Initial Certificate Effective Date: October 4, 1999.
Amendment Number 1 Effective Date: December 26, 2000.
Amendment Number 2 Effective Date: May 29, 2001.
SAR Submitted by: Holtec International.
SAR Title: Final Safety Analysis Report for the HI–STAR 1008 Cask System.
Docket Number: 72–1008.
Certificate Expiration Date: October 4, 2019.
Model Number: HI–STAR 100.

* * * * *

Dated at Rockville, Maryland, this 1st day of March, 2001.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 01–6169 Filed 3–12–01; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM175; Notice No. 25–01–01–SC]

Special Conditions: Boeing Model 777–200 Series Airplanes; Overhead Crew Rest Compartment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes to amend special conditions issued to The Boeing Company for Model 777–200 series airplanes, modified by Flight Structures, Inc. This airplane has a novel or unusual design feature associated with the installation of a crew rest compartment. Special Conditions No. 25–169–SC were issued on December 1, 2000, addressing this installation. On January 16, 2001, Flight Structures, Inc., applied for an amendment to these special conditions to allow the assistance of personnel in the main passenger cabin to assist in the evacuation of an incapacitated person from the flight deck to the main passenger cabin. The assistance by persons in the main passenger cabin would reduce the potential for injury to the incapacitated person(s) being lowered from the overhead crew rest area to the main passenger cabin. Since the applicable airworthiness regulations, including those contained in Special Conditions No. 25–169–SC, do not contain adequate or appropriate safety standards for this design feature, this notice contains the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before April 27, 2001.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–114), Docket No. NM175, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM175. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Transport Standards Staff, ANM–115, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2194; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. The Administrator will consider all communications received on or before the closing date for comments. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this action must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to NM175.'' The postcard will be date stamped and returned to the commenter.

Background

On June 25, 1999, Flight Structures Inc., 4407 172 Street NE, Arlington, Washington, 98223, applied for a supplemental type certificate to install an overhead crew rest compartment in Boeing Model 777–200 series airplanes. The Boeing Model 777–200 is a large twin-jet engine transport airplane with four pairs of Type A exits, a passenger capacity of 440, and a range of 5000 miles. The overhead crew rest compartment is a single compartment located at the door three vicinity above the main passenger compartment with eight private bunks and two seats. A stairwell entering from the door three aisle is the main entry. Two escape hatches are located on either side of the entryway door. It is to be certified for a maximum of ten occupants. Due to the novel or unusual features associated with the installation of a crew rest compartment, Special Conditions No. 25–169–SC were issued on December 1, 2000, to provide a level of safety equal to that established by the regulations incorporated by reference in the type certificate.

Novel or Unusual Design Features

While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each compartment design has unique features by virtue of its design, location, and use on the airplane. Previously, crew rest compartments have been evaluated that are installed within the main passenger compartment area of the Boeing Model 777–200 and Model 777–300 series airplanes; other crew rest compartments have been installed below the passenger cabin area, within the cargo compartment. Similar overhead crew rest compartments have also been installed on the Boeing Model 747 airplane. The interfaces of the modification are evaluated within the interior and assessed in accordance with the certification basis of the airplane. The provisions of compliance with part 25 address cabin systems and interiors as they relate to typical passenger compartments. Part 25 does not provide the requirements for crew rest compartments within the overhead area of the passenger compartment for the Boeing Model 777–200 series airplanes.

This is a compartment that has never been used for this purpose in any previous Boeing Model 777–200 series airplanes. Due to the novel or unusual features associated with the installation of this crew rest compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificate.

Type Certification Basis

Under the provisions of § 21.101, Flight Structures, Inc., must show that

the Boeing Model 777–200 series airplane, as changed, continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. T00001SE for the Boeing Model 777–200 series airplanes include 14 CFR part 25, as amended by Amendments 25–1 through 25–82. The U.S. type certification basis for the Boeing Model 777–200 series airplanes is established in accordance with 14 CFR 21.29 and 21.17 and the type certification application date. The type certification basis is listed in Type Certificate Data Sheet No. T00001SE.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–200 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, Boeing Model 777–200 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as appropriate, are issued in accordance with § 11.49, after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Discussion of the Proposed Special Conditions

Flight Structures, Inc., now proposes to amend Special Conditions No. 25–169–SC to allow for assistance by persons on the main passenger cabin in the evacuation of an incapacitated person from the overhead crew rest. The current Special Condition No. 3 states the following: ''There must be a means for the evacuation of an incapacitated person (representative of a ninety-fifth percentile male) from the crew rest compartment to the passenger cabin floor. The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant) may provide assistance in the evacuation.'' The applicant contends that assistance from persons on the main passenger cabin would reduce the possibility of injury to the incapacitated person being lowered from the overhead crew rest area into the main passenger cabin. The persons assisting could be either crewmembers or passengers seated in the area of the evacuation route.

The FAA has considered the applicant's position and agrees with the proposal. The amended special conditions would allow persons in the main passenger cabin to assist a flight crewmember during the evacuation of the incapacitated person, possibly reducing injury. It was the intent of the original Special Condition No. 3 to limit the number of persons in the actual crew rest area to one person when assisting in the evacuation of an incapacitated person from the overhead crew rest area.

The revised safety standard would be contained in proposed Special Condition No. 3. Although Special Conditions Nos. 1, 2, and 4 though 17 are standards adopted in Special Conditions No. 25–169–SC and are not subject to further public comment, they are repeated in this notice in order to place the revised proposed standard in proper perspective.

These proposed special conditions provide the regulatory requirements necessary for certification of this modification. Other special conditions may be developed, as needed, based on further FAA review and discussions with the applicant, manufacturer, and civil aviation authorities.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 777–200 series airplanes. Should Flight Structures, Inc., apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Boeing Model 777–200 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following amended Special Condition No. 3 as part of the type certification basis for Boeing Model 777–200 series airplanes, as modified by Flight Structures, Inc., with overhead crew rest compartments. (Existing Special Conditions (Nos. 1, 2, and 4–17 are repeated below for clarity.)

1. Occupancy of the overhead crew rest compartment is limited to a maximum of ten occupants. There must be an approved seat or berth able to withstand the maximum flight loads when occupied for each occupant permitted in the crew rest compartment.

(a) There must be appropriate placards, inside and outside to indicate:

(1) The maximum number of occupants allowed,

(2) That occupancy is restricted to crewmembers that are trained in the evacuation procedures for the overhead crew rest compartment,

(3) That occupancy is prohibited during taxi, take-off and landing, and

(4) That smoking is prohibited in the crew rest compartment.

(b) There must be at least one ashtray on the inside and outside of any entrance to the crew rest compartment.

(c) There must be a means to prevent passengers from entering the compartment in the event of an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the crew rest compartment and passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

(e) For all doors installed, there must be a means to preclude anyone from being trapped inside the compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes that could be used by each occupant of the crew

rest compartment to rapidly evacuate to the main cabin. In addition—

(a) The routes must be located with sufficient separation within the compartment, and between the evacuation routes, to minimize the possibility of an event rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing below or against the escape route. One of two evacuation routes may not be located where, during times in which occupancy is allowed, normal movement by passengers occurs (i.e., main aisle, cross aisle, or galley complex) that would impede egress of the crew rest compartment. If there is low headroom at or near the evacuation route, provisions must be made to prevent or to protect occupants from head injury. The use of evacuation routes must not be dependent on any powered device. If the evacuation procedure involves the evacuee stepping on seats, the seats must not be damaged to the extent that they would not be acceptable for occupancy during an emergency landing.

(c) Emergency evacuation procedures and the evacuation of incapacitated occupants must be established and transmitted to the operators for incorporation into their training programs and appropriate operational manuals.

(d) There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a ninety-fifth percentile male) from the crew rest compartment to the passenger cabin floor. The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant within the crew rest area) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. These additional assistants must be standing on the floor while providing assistance. Procedures for the evacuation of an incapacitated person from the crew rest compartment must be established.

4. The following signs and placards must be provided in the crew rest compartment:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i).

(b) An appropriate placard defining the location and the operating instructions for each evacuation route.

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions.

(d) The exit handles and evacuation path operating instruction placards must be illuminated to at least 160 microlamberts under emergency lighting conditions.

5. There must be a means in the event of failure of the airplane's main power system, or of the normal crew rest compartment lighting system, for emergency illumination to be automatically provided for the crew rest compartment.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the crew rest compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

6. There must be means for two-way voice communications between the crewmembers on the flight deck and the occupants of the crew rest compartment. There must also be two-way communications between the occupants of the crew rest compartment and each flight attendant station required to have a public address system microphone per § 25.1423(g) in the passenger cabin.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each pair of required floor level emergency exits to alert occupants of the crew rest compartment of an emergency situation. Use of a public address or crew interphone system will be acceptable, providing an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight, after the shutdown or failure of all engines and auxiliary power units, or the disconnection or failure of all power sources dependent on their continued operation, for a period of at least ten minutes.

8. There must be a means, readily detectable by seated or standing occupants of the crew rest compartment, which indicates when seat belts should be fastened. Seat belt type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position. In the event there are no seats, at least one sign must be provided to cover anticipated turbulence.

9. The following equipment must be provided in the crew rest compartment:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) One protective breathing equipment device approved to Technical Standard Order (TSO)–C116 or equivalent, suitable for fire fighting; and

(c) One flashlight.

10. A smoke detection system (or systems) must be provided that monitors each area within the crew rest compartment, including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication to the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The crew rest compartment must be designed such that fires within the compartment can be controlled without a crewmember having to enter the compartment, or the design of the access provisions must allow crewmembers equipped for firefighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the crew rest compartment from entering any other compartment occupied by crewmembers or passengers. The means must include the time periods during the evacuation of the crew rest compartment and, if applicable, when accessing the crew rest compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers must dissipate within 5

minutes after closing the access to the crew rest compartment. Flight tests must be conducted to show compliance with this requirement.

13. There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the crew rest compartment. The system must provide:

(a) An aural and visual warning to the occupants of the crew rest compartment to don oxygen masks in the event of decompression; and

(b) A decompression warning that activates before the cabin pressure altitude exceeds 15,000 feet. The warning must sound continuously until a reset pushbutton in the crew rest compartment is depressed.

14. The following requirements apply to a crew rest compartment that is divided into several sections by the installation of curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the crew rest compartment that accompanies automatic presentation of supplemental oxygen masks. Two supplemental oxygen masks are required in each section whether or not seats or berths are installed in each section. There must also be a means by which the oxygen masks can be manually deployed from the flight deck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the overhead crew rest compartment into small sections. The placard must require that the curtain(s) remain open when the private section it creates is unoccupied. The vestibule section adjacent to the stairway is not considered a private area and, therefore, does not require a placard.

(c) For each crew rest section created by the installation of a curtain, the following requirements of these special conditions must be met with the curtain open or closed:

(1) No smoking placard (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Emergency alarm system (Special Condition No. 7),

(4) Seat belt fasten signal (Special Condition No. 8), and

(5) The smoke or fire detection system (Special Conditions No.'s 10, 11, and 12).

(d) Overhead crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the crew rest compartment, and must meet the requirements of § 25.812(b)(1)(i).

(e) For sections within an overhead crew rest compartment that are created by the installation of a rigid partition with a door physically separating the sections, the following requirements of these special conditions must be met with the door open or closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of § 25.812(b)(1)(i) that direct occupants to the primary stairway exit.

(f) For each smaller section within the main crew rest compartment created by the installation of a partition with a door, the following requirements of these special conditions must be met with the door open or closed:

(1) No smoking placards (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Two-way voice communication (Special Condition No. 6),

(4) Emergency alarm system (Special Condition No. 7),

(5) Seat belt fasten signal (Special Condition No. 8),

(6) Emergency fire fighting and protective equipment (Special Condition No. 9), and

(7) Smoke or fire detection system (Special Conditions No.'s 10, 11, and 12).

15. The requirements of two-way voice communication with the flight deck and provisions for emergency firefighting and protective equipment are not applicable to lavatories or other small areas that are not intended to be occupied for extended periods of time.

16. Where a waste disposal receptacle is fitted, it must be equipped with an automatic fire extinguisher that meets the performance requirements of § 25.854(b).

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of § 25.853(a), as amended by Amendment 25–83. Mattresses must comply with the flammability requirements of § 25.853(c), as amended by Amendment 25–83.

Issued in Renton, Washington on March 6, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–6089 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 190

Opting Out of Segregation

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: Pursuant to section 111 of the Commodity Futures Modernization Act of 2000, the Commodity Futures Trading Commission (''Commission'' or ''CFTC'') is proposing to adopt a new rule allowing futures commission merchants to offer certain customers the right to elect not to have funds, that are being carried by the futures commission merchant for purposes of margining, guaranteeing or securing the customers' trades on or through a registered derivatives transaction execution facility, separately accounted for and segregated. This is sometimes referred to as ''opting out'' of segregation. The CFTC is also proposing amendments to certain existing rules, which would, among other things, govern the bankruptcy treatment of a customer that opts out of segregation.

DATES: Comments on the proposed rule changes must be received by April 12, 2001.

ADDRESSES: Comments on the proposed rule should be sent to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Comments may be sent by facsimile transmission to (202) 418–5528, or by e-mail to *secretary@cftc.gov.* Reference should be made to ''Commission Rule 1.68.''

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Michael A. Piracci, Attorney-Advisor, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION:

I. Background

The Commodity Futures Modernization Act of 2000 (''CFMA''),[1] enacted on December 21, 2000, adopted section 5a of the Commodity Exchange Act (the ''Act'') [2] to permit a board of trade, subject to certain conditions, to elect to operate as a registered derivatives transaction execution facility (''DTF'') in lieu of seeking designation as a contract market.[3] In order to operate as a registered DTF, the board of trade must meet certain requirements as to the underlying commodities traded [4] and must restrict access to certain eligible traders. In order to be eligible to trade on a registered DTF, a person must either be an eligible contract participant or trade through a futures commission merchant (''FCM'') that: (i) is registered with the Commission; (ii) is a member of a futures industry self-regulatory organization (or, if the person is only trading security futures products, a registered national securities association); (iii) is a clearing member of a derivatives clearing organization; and (iv) has net capital of at least $20 million. Generally, eligible contract participants are institutional traders and individual traders who meet substantial asset requirements, trading for their own accounts.[5] Accordingly, trading on a DTF is limited generally either to (1) institutional or commercial traders, or (2) ''retail'' customers conducting their trading through a well-capitalized FCM. The newly-adopted section 5a(f) of the Act provides that a registered DTF may authorize an FCM to offer its customers that are eligible contract participants the right not to have their funds that are carried by the FCM for purposes of trading on the registered DTF, separately accounted for and segregated. Opting out of segregation is not available to a customer who is not also an eligible contract participant.

II. The Proposed Rule and Amendments to Existing Rules

A. Proposed Rule 1.68

The Commission is proposing to add new Rule 1.68 to implement the newly-adopted section 5a(f) of the Act. The new rule will provide that an FCM shall not segregate a customer's funds where: (i) the customer is an eligible contract participant; (ii) the funds are deposited with the FCM for purposes of trading on a registered DTF; (iii) the DTF has authorized the FCM to permit eligible contract participants to elect not to have such funds segregated; and (iv) there is a written agreement signed by the customer in which the customer elects to opt out of segregation and acknowledges that it is aware of the consequences of not having its funds segregated. In particular, the agreement must explain that, to the extent a customer has a claim against the estate of a bankrupt FCM in connection with trades for which it has opted out of segregation, the customer would not be entitled to the usual customer priority in bankruptcy.[6] The FCM would be required to keep this agreement on file and open to inspection in accordance with Rule 1.31, the Commission's general recordkeeping rule.[7] This proposed rule is similar to the ''opt-out'' provisions that have been instituted by the Financial Services Authority (''FSA''), the regulatory agency in the United Kingdom.[8]

Section 4d(2) of the Act generally provides that an FCM must keep funds received from customers separate from the funds of the FCM. The segregation of customer funds serves one of the most important purposes of the Act and the regulatory framework under the Act, the protection of customer funds. The Commission recognizes that eligible contract participants are sophisticated customers and as such may not require the same level of protection as retail customers. The Commission believes, however, that it is necessary for customers of an FCM, regardless of sophistication, to demonstrate affirmatively that they have elected not to have their funds segregated and that they are aware of the consequences of not having their funds segregated from the funds of the FCM.

An FCM may offer benefits to customers who elect not to have their funds segregated. In making any such offer, however, an FCM may not make any misleading claims or disclosures. For purposes of satisfying the requirement that the customer sign the opt-out agreement, an electronic signature will be acceptable provided it satisfies the elements of Rule 1.4.

To minimize paperwork burdens on FCMs and customers, if a customer opts out of segregation in accordance with proposed Rule 1.68, the FCM could provide the customer a single monthly account statement with a notation of trades for which segregation does not apply. Similarly, the FCM's records must clearly distinguish those positions subject to the opt-out agreement and those that remain subject to segregation. In no event, however, may customer funds related to DTF ''opt-out'' trades be commingled with customer funds segregated pursuant to Section 4d of the Act and the Commission rules thereunder.

To ease the burden on FCMs, the required agreement with a customer to opt out of segregation may provide that it covers all DTFs that have authorized FCMs to offer such treatment of customer funds. A customer may revoke its election to opt out of segregation by notifying the FCM in writing. To avoid undue disruption of the FCM's business, however, the revocation of the election to opt out of segregation would only be effective for trades entered into after the FCM received such notice from the customer.[9]

The proposed rule would also provide that a customer who chose to opt out of segregation would not be permitted to establish a ''third-party custodial account,'' sometimes also referred to as a ''safekeeping account.'' In Financial and Segregation Interpretation No. 10 (''Interpretation No. 10''), the Commission's Division of Trading and Markets (the ''Division'') set forth

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[1] Commodity Futures Modernization Act of 2000, Pub. L. No. 106–554, 114 Stat. 2763 (to be codified as amended in scattered sections of 7 U.S.C.).

[2] 7 U.S.C. 1 *et seq.* (1994), *as amended by* Pub. L. 106–554, 114 Stat. 2763.

[3] Commission rules concerning DTFs will be included in a new Part 37, which was published for comment on March 9, 2001.

[4] The requirements for the underlying commodities traded are: (1) The commodity has a nearly inexhaustible deliverable supply; (2) the commodity has a deliverable supply sufficiently large so that the contract is highly unlikely to be susceptible to manipulation; (3) the commodity has no cash market; (4) the contract is a security futures product and the DTF is a registered national securities exchange; (5) the Commission determines that futures trading is unlikely to be susceptible to the threat of manipulation; or (6) the commodity is not an agricultural commodity enumerated in section 1a(4) of the Act and trading is limited to eligible commercial entities trading for their own account. A registered DTF may also trade excluded or exempt commodities that are otherwise excluded pursuant sections 2(c), 2(d), or 2(g) of the Act, or exempt under section 2(h) of the Act.

[5] *See* Section 1a(12) of the newly-amended Act for the definition of ''eligible contract participant.''

[6] Normally, in the event of an FCM's bankruptcy, customer claims have priority with respect to customer property over all other claims, except claims ''attributable to the administration of customer property.'' *See* 11 U.S.C. 766(h); *see also* 17 CFR Part 190. To the extent that the customer has claims against the bankrupt FCM's estate for trades to which segregation applies, e.g., trades on or subject to the rules of contract markets, or of DTFs for which opting out of segregation is not permitted, the customer would be eligible for the customer priority. Thus, the same customer may have two different kinds of claims against the estate of a bankrupt FCM. *See* 48 FR 8716 (March 1, 1983).

[7] Commission rules referred to herein are found at 17 CFR Ch. 1 (2000).

[8] *See* Securities and Futures Authority (''SFA'') Rule 4–52. In 2002, SFA Rule 4–52 will be replaced by FSA Conduct Of Business Rules 9.3.8 to 9.3.14.

[9] As with the agreement electing to opt out of segregation, the FCM is required to keep the notice to cancel such an election on file and open to inspection in accordance with Rule 1.31.

guidelines for these types of accounts.[10] In Interpretation No. 10, the Division noted that, if the account is set up in accordance with the guidelines, a third-party custodial account will be deemed to be a separate segregated account. The purpose of the proposed rule is to permit customers the opportunity to opt out of segregation. The Commission believes that it would be inconsistent for a customer to opt out of segregation with respect to DTF trades and at the same time maintain a third-party custodial account, to hold funds related to DTF trades, because such an account is deemed to be a separate segregated account. The Commission is also proposing that a customer who opts out of segregation as to funds held for trading on a DTF not be permitted to obtain a security interest in such funds, so as to gain a priority over other creditors of the FCM.

B. Amendments to Rules 1.3(gg), 1.3(uu), 1.17(a)(1)(i)(B), and 190.07(b)

Rule 1.3(gg) defines the term ''customer funds.'' The Commission proposes to amend that rule to make clear that the funds of an opt-out customer would not be deemed ''customer funds.'' The Commission proposes to add Rule 1.3(uu) to define the term ''opt-out customer.'' An opt-out customer is a customer who is an eligible contract participant and elects not to have funds carried by an FCM for purposes of trading on a DTF separately accounted for and segregated, in accordance with proposed Rule 1.68.

Rule 1.17(a)(1)(i) provides the standards for determining the minimum adjusted net capital that must be maintained by each person registered as an FCM. The Commission proposes to amend Rule 1.17(a)(1)(i)(B), which contains the volume of business element of these standards, to make clear that the funds of an opt-out customer are to be included in the computation of the FCM's minimum adjusted net capital requirement. Persons who opt out of segregation are still customers of the FCM and carrying the positions of these customers still poses a risk to the FCM. The Commission believes the amendment to the rule is important to ensure that opt-out customers, by opting out of segregation, do not have an impact on the financial condition of the FCM, thereby increasing the risk to the other customers of the FCM or to the marketplace. The Commission notes that industry self-regulatory organizations have implemented risk-based capital requirements that take into account both positions subject to segregation and those not subject to segregation. Additionally, the Commission notes that by including the funds of the opt-out customer for purposes of calculating the minimum adjusted net capital, there is no effect on the current minimum capital requirements for registered FCMs.[11]

Rule 1.37(a) currently requires an FCM, for each account that it carries, to keep a permanent record that shows the name, address, and occupation of the person for whom the account is being carried, as well as any person guaranteeing the account or exercising trading control with respect to the account. The Commission proposes to maintain this requirement and to redesignate paragraph ''(a)'' as paragraph ''(a)(1).'' The Commission further proposes to add paragraph ''(a)(2),'' to require FCMs to keep a permanent record showing a customer's election pursuant to proposed Rule 1.68. The FCM would be permitted to indicate such a customer's election on the record it is required to keep under redesignated paragraph (a)(1).

Rule 190.07(b) defines the term ''net equity'' for purposes of calculating the allowed net equity claim of a customer in the event of an FCM bankruptcy. The Commission proposes to amend the rule to make clear that the net equity of an opt-out customer shall not include funds the customer has chosen not to have segregated and separately accounted for pursuant to proposed Rule 1.68. As noted above, the Commission's intention in this area is that, to the extent that a customer has a claim against the estate of a bankrupt FCM in connection with trades for which it has opted out of segregation, the customer would not be entitled to the normal customer priority in bankruptcy and would be treated as a general creditor.[12]

C. DTF Rules

A DTF that wishes to permit FCMs to offer eligible contract participants the right to opt out of segregation must notify the Commission of its intent to institute a rule to that effect at least one day before its implementation, in accordance with Commission Rule 37.7(b). The DTF should also make any such rule publicly available, so that FCMs and eligible contract participants will be aware of the rule.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'')[13] requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[14] The Commission has previously determined that FCMs are not small entities for the purpose of the RFA.[15] Additionally, eligible contract participants, as defined in the newly-amended Act, by the nature of the definition, should not be considered small entities. Further, eligible contract participants have the choice as to whether or not to exercise the right not to have certain funds segregated from the FCM's funds. Accordingly, the Acting Chairman, on behalf of the Commission, certifies pursuant to section 3(a) of the RFA[16] that the proposed rules will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA'')[17] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. The Commission has submitted a copy of this part to the Office of Management and Budget (''OMB'') for its review.

Collection of Information

Customer Election to Opt Out of Segregation, OMB Control Number 3038–0024.

The Burden associated with the proposed new rule is estimated to be 600 hours, which will result from new recordkeeping requirements for FCMs

[10] Financial and Segregation Interpretation No. 10, 1 Comm. Fut. L. Rep. (CCH) ¶ 7120 (May 23, 1984).

[11] Several other provisions of Rule 1.17 include calculations for determining the adjusted net capital required of an FCM in order to undertake various actions, such as prepaying subordinated debt. The Commission is proposing to amend these rules to make clear that the funds of an opt-out customer are to be included in calculating the FCM's required adjusted net capital in these situations. *See* Rules 1.17(e)(1)(ii), 1.17(h)(2)(vi)(C)(*2*), 1.17(h)(2)(vii)(A)(*2*), 1.17(h)(2)(vii)(B)(*2*), 1.17(h)(2)(viii)(A)(*2*), 1.17(h)(3)(ii)(B), and 1.17(h)(3)(v)(B); *see also* Rule 1.12(b)(2) (determining the ''early warning'' level of adjusted net capital).

[12] Of course, to the extent this customer has claims against the bankrupt FCM 's estate for trades for which funds have been segregated, it would be eligible for the customer priority.

[13] 5 U.S.C. 601 *et seq.*

[14] 47 FR 18618 (April 30, 1982).

[15] 47 FR at 18619.

[16] 5 U.S.C. 605(b).

[17] 44 U.S.C. 3501 *et seq.*

who offer eligible customers the right to opt out of segregation.

The estimated burden of the proposed new rule was calculated as follows:

Estimated number of respondents: 120.

Reports annually by each respondent: 250.

Total annual Responses: 30,000.

Estimated average Number of Hours Per Response: .02.

Estimated Total Number of Hours of Annual Burden in Fiscal Year: 600.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235 New Executive Building, Washington, DC 20503, Attention: Desk Officer for the Commodity Futures Trading Commission.

The Commission considers comments by the public on this proposed collection of information in—

• Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;

• Evaluating the accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhancing the quality, usefulness, and clarity of the information to be collected; and

• Minimizing the burden of 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.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Commission on the proposed regulations.

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

C. Comment Period

Section 111 of the CFMA provides that a registered DTF may authorize an FCM to offer eligible contract participants the right to opt out of segregation with respect to trades on the DTF ''not later than 180 days after the date of enactment of the [CFMA], consistent with regulations adopted by the Commission.'' The time frame provided for in the statute will be reached on or about June 19, 2001. Accordingly, the Commission is providing for only a 30-day comment period on the proposed new rule and rule amendments to implement the statutory requirements.

D. Cost-Benefit Analysis

Section 119 of the CFMA amended section 15 of the Act to require that the Commission, before promulgating a regulation under the Act or issuing an order, consider the costs and benefits of the Commission's action in light of five criteria.[18] The main consideration relevant to the proposed new rule is the first one set forth in the Act, ''protection of market participants and the public.'' The Commission believes that those market participants eligible to opt out of segregation are sophisticated persons that can properly evaluate for themselves, in light of the required disclosure by, and agreement with, an FCM, whether to opt out of segregation. Additionally, FCMs are also able to evaluate whether offering such an election to their customers who are eligible contract participants is appropriate and consistent with sound risk management practices. The general public and retail customers should also be protected because any eligible contract participant who opts out of segregation would be treated as a general creditor, with respect to those trades for which it has elected to opt out of segregation, in the event of the FCM's bankruptcy. The Commission further notes that opting out of segregation is not required of anyone and would have to be a voluntary election of the registered DTF, FCM, and eligible contract participant. The Commission also notes that the CFMA specifically mandates that the Commission adopt rules to facilitate this election.

List of Subjects

17 CFR Part 1

Consumer protection, Definitions, Reporting and recordkeeping requirements.

[18] These considerations include: (A) protection of market participants and the public; (B) efficiency, competitiveness, and financial integrity of futures markets; (C) price discovery; (D) sound risk management practices; and (E) other public interest considerations.

17 CFR Part 190

Bankruptcy, Definitions.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1)(A), 4d, 5a(f), and 8a(5) 7 U.S.C. 2(i), 6d, 7a(f), and 12a(5), and 11 U.S.C. 362, 546, 548, 556 and 761–766, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24.

2. Section 1.3 is amended by adding paragraphs (gg)(3) and (uu) to read as follows:

§ 1.3 Definitions.

* * * * *

(gg) * * *

* * * * *

(3) Notwithstanding paragraphs (gg)(1) and (2) of this section, the term customer funds shall exclude money, securities or property received to margin, guarantee or secure the trades or contracts of opt-out customers, and all money accruing to opt-out customers as the result of such trades or contracts, to the extent that such trades or contracts are made on or subject to the rules of any registered derivatives transaction execution facility that has authorized opting out in accordance with § 37.7 of this chapter.

* * * * *

(uu) *Opt-out customer.* This term means a customer that is an eligible contract participant, as defined in section 1a(12) of the Act, that has elected, in accordance with § 1.68, not to have funds that are being carried for purposes of trading on or through the facilities of a registered derivatives transaction execution facility, separately accounted for and segregated by the futures commission merchant.

* * * * *

3. Section 1.12 is amended by revising paragraph (b)(2) to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants and introducing brokers.

* * * * *

(b) * * *

(2) Six percent of the following amount: The customer funds required to

be segregated pursuant to the Act and the regulations in this part, plus the funds of opt-out customers that, but for the election to opt out pursuant to § 1.68, would be required to be segregated, plus the foreign futures or foreign options secured amount, less the market value of commodity options purchased by such customers on or subject to the rules of a contract market or a foreign board of trade for which the full premiums have been paid: *Provided, however,* that the deduction for each such customer shall be limited to the amount of customer funds in such customer's account(s) and foreign futures and foreign options secured amounts;

* * * * *

4. Section 1.17 is amended as follows:

a. By revising paragraph (a)(1)(i)(B), and

b. By revising paragraphs (e)(1)(ii), (h)(2)(vi)(C)(*2*), (h)(2)(vii)(A)(*2*) (h)(2)(vii)(B)(*2*), (h)(2)(viii)(A)(*2*), (h)(3)(ii)(B), and (h)(3)(v)(B) by removing the second instance of the word ''and'' and adding in its place the words '', plus the funds of opt-out customers that, but for the election to opt out pursuant to § 1.68, would be required to be segregated, plus'', to read as follows:

§ 1.17 Minimum financial requirements for futures commission merchants and introducing brokers.

(a) * * *

(1) * * *

(i) * * *

(B) Four percent of the following amount: The customer funds required to be segregated pursuant to the Act and the regulations in this part, plus the funds of opt-out customers that, but for the election to opt out pursuant to § 1.68, would be required to be segregated, plus the foreign futures or foreign options secured amount, less the market value of commodity options purchased by customers on or subject to the rules of a contract market or a foreign board of trade for which the full premiums have been paid: *Provided, however,* that the deduction for each customer shall be limited to the amount of segregated customer funds in such customer's account(s) and foreign futures and foreign options secured accounts;

* * * * *

5. Section 1.37 is amended by redesignating paragraph (a) as paragraph (a)(1) and by adding paragraph (a)(2) to read as follows:

§ 1.37 Customer's or option customer's name, address, and occupation recorded; record of guarantor or controller of account.

(a) * * *

(2) Each futures commission merchant who receives a customer's election not to have the customer's funds separately accounted for and segregated, in accordance with § 1.68, shall keep a record in permanent form that indicates such customer's election. The record of such a customer election may be indicated on the record required by paragraph (a)(1) of this section.

* * * * *

6. Section 1.68 is added to read as follows:

§ 1.68 Customer election not to have funds, carried by a futures commission merchant for trading on a registered derivatives transaction execution facility, separately accounted for and segregated.

(a) A futures commission merchant shall not separately account for and segregate as belonging to commodity or options customers, funds received from a customer if:

(1) The customer is an eligible contract participant as defined in section 1a(12) of the Act;

(2) The customer's funds are being carried by the futures commission merchant for the purpose of trading on or through the facilities of a derivatives transaction execution facility registered under section 5a(c) of the Act;

(3) The registered derivatives transaction execution facility has authorized, in accordance with § 37.7 of this chapter, futures commission merchants to offer eligible contract participants the right to elect not to have funds that are being carried for purposes of trading on or through the facilities of the registered derivatives transaction execution facility, separately accounted for and segregated by the futures commission merchant; and

(4) The futures commission merchant and the customer have entered into a written agreement, signed by the customer, in which the customer acknowledges that:

(i) The customer is an eligible contract participant as defined in section 1a(12) of the Act;

(ii) The customer elects not to have its funds separately accounted for and segregated with respect to agreements, contracts or transactions traded on or subject to the rules of any registered derivatives transaction execution facility that has authorized such treatment in accordance with § 37.7 of this chapter;

(iii) The customer has been informed that, by making this election:

(A) The customer's funds, related to agreements, contracts or transactions on any registered derivatives transaction execution facility that authorizes the opting out of segregation will not be segregated from the funds of the futures commission merchant;

(B) Such funds may be used by the futures commission merchant in the course of the futures commission merchant's business; and

(C) In the event the futures commission merchant files, or has a petition filed against it, for bankruptcy, the customer, as to those funds that the customer has elected not to have separately accounted for and segregated by the futures commission merchant, in accordance with this section, will not be entitled to the priority for customer claims provided for under the Bankruptcy Code and Part 190 of this chapter, and may be treated as a general creditor of the futures commission merchant; and

(iv) The agreement shall remain in effect unless and until the customer revokes the agreement in accordance with paragraph (c) of this section.

(b) In no event may money, securities or property representing those funds that customers have elected not to have separately accounted for and segregated by the futures commission merchant, in accordance with this section, be held or commingled and deposited with customer funds in the same account or accounts required to be separately accounted for and segregated pursuant to section 4d of the Act and rules thereunder.

(c) A customer that has entered into an agreement in accordance with paragraph (a)(4) of this section may abrogate that agreement by so informing the futures commission merchant in writing. The customer's statement, indicating its intent to abrogate the agreement, must be signed by a person with the authority to bind the customer and will be effective with respect to any agreements, contracts or transactions entered into by the customer on or subject to the rules of a derivatives transaction execution facility after the customer's written statement is received by the futures commission merchant.

(d) Each futures commission merchant shall maintain any agreements entered into with customers pursuant to paragraph (a) of this section and any cancellations of such agreements, made pursuant to paragraph (c) of this section, in accordance with § 1.31.

(e) A customer who elects not to have its funds separately accounted for and segregated, in accordance with this section, may not establish a third-party custodial account for those funds, as

described in the Commission's Division of Trading and Markets Financial and Segregation Interpretation No. 10, 1 Comm. Fut. L. Rep. (CCH) ¶ 7120 (May 23, 1984), and may not obtain a security interest in such funds.

PART 190—BANKRUPTCY RULES

7. The authority citation for Part 190 continues to read as follows:

Authority: 7 U.S.C. 1a, 2, 4a, 6c, 6d, 6g, 7, 7a, 12, 19, 23, and 24, and 11 U.S.C. 362, 546, 548, 556 and 761–766, unless otherwise noted.

8. Section 190.07 is amended by revising paragraph (b) introductory text to read as follows:

§ 190.07 Calculation of allowed net equity.

* * * * *

(b) *Net equity.* Net equity means the total claim of a customer against the estate of the debtor based on the commodity contracts held by the debtor for or on behalf of such customer less any indebtedness of the customer to the debtor. Net equity for any opt-out customer shall exclude any claim based on any commodity contracts traded on or subject to the rules of any registered derivatives transaction execution facility that has authorized opting out in accordance with § 37.7 of this chapter. Net equity shall be calculated as follows:

* * * * *

Issued in Washington, DC on March 8, 2001, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–6181 Filed 3–12–01; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105235–99]

RIN 1545–AX28

Exclusion of Gain From Sale or Exchange of a Principal Residence; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Tuesday, October 10, 2000 (65 FR 60136) relating to the exclusion of gain from the sale or exchange of taxpayer's principal residence.

FOR FURTHER INFORMATION CONTACT: Sara P. Shepherd at (202) 622–4910 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of these corrections is under section 121 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG–105235–99), that was the subject of FR Doc. 00–25482, is corrected as follows:

§ 1.121–1 [Corrected]

1. On page 60139, column 1, § 1.121–1, paragraph (f), *Example 9*, third line from the bottom of the paragraph, the language ''$5,000 of which adjusted net capital gain). J'' is corrected to read ''$5,000 of which is adjusted net capital gain). J''.

§ 1.121–2 [Corrected]

2. On page 60139, column 2, § 1.121–2, paragraph (b)(3), *Example 1*, line three, the language ''sale is $256,000. A and B meet the'' is corrected to read ''sale is $256,000. H and W meet the''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Office of Special Counsel (Modernization and Strategic Planning).

[FR Doc. 01–5959 Filed 3–12–01; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[WA–72–7147b; FRL–6938–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve the Kent, Seattle, and Tacoma, Washington PM–10 area maintenance plan and redesignation request from nonattainment to attainment as revisions to the Washington State Implementation Plan (SIP). PM–10 air pollution is suspended particulate matter with a diameter less than or equal to a nominal ten micrometers.

In the Final Rules section of this **Federal Register**, the EPA is approving the Washington SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated.

If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments must be received by April 12, 2001.

ADDRESSES: Written comments should be addressed to Debra Suzuki, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below.

Copies of the State's request and other information supporting this action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and State of Washington Department of Ecology, 300 Desmond Drive, PO Box 47600, Olympia, Washington 98504–7600.

FOR FURTHER INFORMATION CONTACT: Steven K. Body, EPA, Office of Air Quality (OAQ–107), Seattle, Washington, (206) 553–0782.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: December 11, 2000.

Ronald A. Kreizenbeck,

Acting Regional Administrator, Region 10.

[FR Doc. 01–6083 Filed 3–12–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–348; MM Docket No. 01–38; RM–10064]

Radio Broadcasting Services; Macon, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comment on a Petition for Rule Making filed on behalf of Radio South, Inc., licensee of Station WLXY, Channel 264C3, Northport, Alabama, proposing the removal of Channel 263A from Macon, Mississippi. In the event a party expresses an interest in the Channel 263A allotment at Macon, Radio South proposes the substitution of Channel 249A for Channel 263A at Macon. The coordinates for the Channel 249A allotment at Macon, Mississippi, would be 33–05–40 and 88–31–40.

DATES: Comments must be filed on or before April 3, 2001, and reply comments on or before April 18, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Erwin G. Krasnow, c/o Verner, Liipert, Bernhard, McPherson and Hand, 901 15tht Street, NW, Suite 700, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making* in MM Docket No. 01–38 , adopted February 7, 2001, and released February 9, 2001. The full text of this Commission action is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW, Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Mississippi is amended to remove Macon, Channel 263A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 01–5828 Filed 3–12–01; 8:45 am]

BILLING CODE 6712–01–U

Notices

Federal Register

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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

Government Owned Inventions Available for Licensing

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of Government owned inventions available for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government as represented by the Department of Agriculture, and are available for licensing in accordance with 35 U.S.C. 207 and 37 CFR 404 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Technical and licensing information on these inventions may be obtained by writing to June Blalock, Technology Licensing Coordinator, USDA, ARS, Office of Technology Transfer, 5601 Sunnyside Avenue, Room 4–1158, Beltsville, Maryland 20705–5131; telephone: 301–504–5989 or fax: 301–504–5060. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The inventions available for licensing are:

S.N. 08/834,051, ''Activated Carbons From Low-Density Agricultural Waste''

S.N. 08/853,296, ''Activated Nutshell Carbons With Enhanced Removal of Polar Organics'''

S.N. 08/865,429, ''Activated Nutshell Carbons from Agricultural Waste''

S.N. 09/197,679, ''Vaccine Against Swine Influenza Virus''

S.N. 09/395,565, ''Insulin Potentiating Compounds from Cinnamon''

S.N. 09/414,097, ''Bacillus Species for Reducing Fusarium Head Blight in Cereals''

S.N. 09/414,645, ''Chromium-Histidine Complexes as Nutrient Supplements''

S.N. 09/420,963, ''Edible Water-Solubility Resistant Casein Masses''

S.N. 09/428,096, ''Application of High Pressure Carbon Dioxide for Accelerated Manufacture of Hard Cheese''

S.N. 09/451,117, ''Cloning and Expression of a DNA Sequence Encoding A 41 kDa Cryptosporidium parvum Oocyst Wall Protein''

S.N. 09/452,939, ''Enzymatic Treatment of Proteinaceous Materials to Impart Cohesion and Strength''

S.N. 09/461,257, ''Compositions Comprising Mixtures of Anionic Polyacrylamide (PAM) and Calcium Oxide (CaO) and Methods of Using Thereof''

S.N. 09/471,016, ''Method for Differentiating Between the Causal Agents of Karnal Bunt Wheat Fungus and Ryegrass Smut Using PCR''

S.N. 09/490,360, ''Biodegradable Oleic Estolide Ester Having Saturated Fatty Acid End Group Useful as Lubricant Base Stock''

S.N. 09/490,361, ''Mobile System to Repackage Compressible Materials''

S.N. 09/511,193, ''Artificial Diets for Arthropods''

S.N. 09/515,238, '' 'Gulfprince' Peach''

S.N. 09/522,401, ''Transformation of Plants with a Chloroperoxidase Gene to Enhance Disease Resistance''

S.N. 09/523,330, ''7,10,12-Trihydroxy-8(E)-Octadecenoic Acid and Derivatives and Uses Thereof''

S.N. 09/526,334, ''Attractant for the Mediterranean Fruit Fly, The Method of Preparation and Method of Use''

S.N. 09/534,002, ''Monoclonal Antibodities Specific for Avian Interferon-Y''

S.N. 09/535,381, ''Fungal Lactate Dehydrogenase Gene and Constructs for the Expression Thereof''

S.N. 09/535,826, ''Novel Sunscreens from Vegetable Oil and Plant Phenols''

S.N. 09/538,837, ''Rice Flour Based Low Oil Uptake Frying Batters''

S.N. 09/558,895, ''Wood and Plastic Composite Material and Methods for Making Same''

S.N. 09/573,354, ''An Elicitor Protein Produced by Trichoderma Virens That Induces Disease Defense Responses in Plants''

S.N. 09/577,148, ''Selected Insect Cell Line Clones Providing Increased Yield of Baculoviruses and Gene Expression Products from Recombinant Baculoviruses''

S.N. 09/583,529, ''Selective Media for Recovery and Enumeration of Campylobacters''

S.N. 09/592,777, ''System for the Control of Enteropathogenic Bacteria in the Crops of Poultry''

S.N. 09/594,659, ''Flexible Ground-Driven Residue Management Wheel''

S.N. 09/594,704, ''Cryopreservation of Swine Embryos''

S.N. 09/603,997, ''Production of Vaccines Using Transgenic Plants or Modified Plant Viruses as Expression Vectors and Transencapsidated Viral Coat Proteins as Epitope Presentation Systems''

S.N. 09/611,615, ''Coby Products and a Process for Their Manufacture''

S.N. 09/615,298, ''A Monoclonal Antibody Based Immunoassy for Ractopamine''

S.N. 09/621,466, ''Biological Control Formulation Containing Spores of Non-Toxigenic Strains of Fungi for Toxin Control of Foods''

S.N. 09/631,551, ''Control of Kudzu With a Fungal Pathogen Derived from Myrothecium Verrucaria''

S.N. 09/633,260, ''Regeneration of Rose Plants from Embryogenic Callus''

S.N. 09/645,204, ''Method of Making Rice Fries and the Product Produced Therefrom''

S.N. 09/691,178, ''A Plant Autophagy Gene''

S.N. 09/702,222, ''Method of Reducing Bacterial Enteropathogens in the Crop of Fowl Subjected to Feed Withdrawal''

S.N. 09/703,807, ''PCR Primers for Detection and Identification of Plant Pathogenic Species, Subspecies, and Strains of Acidovorax''

S.N. 09/715,677, ''Transformation of Ricinus Communis, The Castor Plant''

S.N. 09/721,300, ''Extrusion Freeform Fabrication of Soybean Oil Based Composites by Direct Deposition''

S.N. 09/726,873, ''Solitary Bee Nesting Block''

S.N. 09/737,975, ''Fungal Media and Methods for Continuous Propagation of Vesicular-Arbuscular Mycorrhizal (VAM) Fungi in Root Organ Culture''

S.N. 09/741,467, ''Fiber Enriched Foods''

June Blalock,

Technology Licensing Coordinator.

[FR Doc. 01–6205 Filed 3–12–01; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Agricultural Research Service.

ACTION: Notice of settlement.

SUMMARY: Notice is hereby given that a proposed Settlement Agreement in the matter of: USDA Cotton Research Station, Shafter, Kern County, California, Kern County Agt. #1098–2000, was entered into by the United States Department of Agriculture, Agricultural Research Service (USDA), and the County of Kern, a political subdivision of the State of California (County), pursuant to Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 6922(h)(1), and the Federal Tort Claims Act (FTCA), 28 U.S.C. 1346(b), 2671, *et seq.* The Settlement Agreement resolves any claims that the United States may have against the County under section 7 of CERCLA, 42 U.S.C. 9607, for response costs incurred at the former USDA Cotton Research Station, located on the Shafter Experimental Farm (Site), near Shafter, California. The Settlement Agreement also resolves any claims that the County may have against the United States under CERCLA and the FTCA for damages resulting from contamination at the Site. Finally, the Settlement Agreement authorizes USDA to conduct a proposed response action by implementing a Closure Plan at Drywell No. 1 at the Site.

The proposed Settlement Agreement provides that the United States will covenant not to sue, subject to certain reservation of rights, the County pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), to recover response costs relating to the Site. The proposed Settlement Agreement also provides that the County will release the United States from liability relating to the Site, including under CERCLA, FTCA, or State law.

USDA will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed settlement. In accordance with section 122(i)(3) of CERCLA, 42 U.S.C. 9622(i)(3), USDA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper, or inadequate. Comments should be addressed to Mr. Michael P. Blanchette at the United States Department of Agriculture, Agricultural Research Service, Safety, Health, and Environmental Management Branch, 5601 Sunnyside Avenue, Mail Stop 5127, Beltsville, Maryland 20705–5127, and should refer to In The Matter of: USDA Cotton Research Station, Shafter, Kern County, California, Kern County Agt. #1098–2000.

The proposed Settlement Agreement may be examined at the office of Mr. Alvin Humphrey, Area Safety and Health Manager, Pacific West Area, Agricultural Research Service, USDA, 800 Buchanan Street, Albany, California 94710. A copy may also be requested by mail from Mr. Humphrey.

Dated: February 12, 2001.

Edward B. Knipling,

Associate Administrator, Agricultural Research Service.

[FR Doc. 01–6204 Filed 3–12–01; 8:45 am]

BILLING CODE 3410–03–U

DEPARTMENT OF AGRICULTURE

Forest Service

Kelsey-Beaver EIS; Kootenai National Forest, Lincoln County, Montana

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of fire recovery activities. The project is located on the Three Rivers Ranger District, Kootenai National Forest, Lincoln County, Montana, approximately 30 air miles northeast of Troy, Montana.

The Proposed Action was developed in response to major fire events that burned over 12,100 acres in the Kelsey Creek, Roderick South, and Upper Beaver Cr. areas in August 2000. These fires resulted in significant tree mortality as well as increases in future fuel levels. The fires burned within approximately 1,200 acres of designated old growth. Increases in peak water flows in many streams are predicted to exceed maximum levels allowed by the Kootenai Forest Plan as a result of vegetation loss associated with the fires.

Following the fires, the forest conducted an assessment to develop a framework upon which to base further recovery efforts (Forest Assessment of Major Fires 2000, October 2000). This assessment identified opportunities for rehabilitation and restoration that have been carried forward into this proposal.

This project proposes to salvage timber, revegetate burned areas, improve road drainage conditions, and implement access management decisions.

The purpose and need for these activities is to: (1) Reduce fuel accumulations and the potential for reburn; (2) Recover the economic value of dead timber; (3) Increase the mature forest component in the project area; (4) Restore vegetative species appropriate to burned sites; (5) Contribute to watershed recovery processes by correcting chronic sources of sediment; (6) Provide access for fire recovery projects and public use while maintaining wildlife security.

Overall guidance of land management activities on the Kootenai National Forest, including timber harvest and road management, is provided by the Kootenai National Forest Land and Resource Management Plan (Forest Plan, September, 1987). Harvest activities may take place in the following Management Areas (MA) 10 and 11—Big Game Winter Range, MA 12—Big Game Summer Range, MA 14—Grizzly Habitat Management, MA 15—Timber Production, MA 16—Timber with Viewing, MA 17—Viewing with Timber, and MA 19—Steep Lands, as defined by the Kootenai National Forest Plan.

The Proposed Action may require a Kootenai National Forest Plan project-specific amendment to suspend MA 12 standards that require movement corridors and adjacent hiding cover be retained. The wildfires burned around some pre-fire openings, removing cover in corridors and creating larger openings. The proposed activities would remove burned material that previously provided corridor cover. Live trees and some snags and coarse woody material would be left to provide wildlife habitat and maintain soil productivity. In the larger openings, patches and corridors would be left to provide some level of security for wildlife movement through the fire areas. Openings over 40 acres would result from these proposed activities or when considered with openings created by fire.

The DEIS will analyze the direct, indirect, and cumulative environmental effects of the alternatives. Past, present, and projected activities on National

Forest Lands will be considered. The DEIS will disclose the analysis of site-specific mitigation measures and their effectiveness. The DEIS is expected to be filed with the EPA and available for public review by July 2001.

Scoping Comment Date: While public participation in this analysis is welcome at any time, comments received within 30 days of the publication of this notice will be especially useful in the preparation of the Draft EIS.

ADDRESSES: Written comments and suggestions concerning the scope of the analysis should be sent to Michael L. Balboni, District Ranger, Three Rivers Ranger District, 1437 Hwy 2, Troy, MT 59935.

FOR FURTHER INFORMATION CONTACT: Contact Mike Giesey, Team Leader, Three Rivers Ranger District. Phone: (406) 295–4693.

SUPPLEMENTARY INFORMATION: The project area is approximately 61,700 acres and encompasses the Lang, Vinal, Bunker Hill, Yodkin, Beaver, Browning, Fowler, Hartman, Fix, Kelsey, Can, Zulu, Smoot, Clay, Rene Tributary, and Dutch Cr. drainages. Proposed activities within the decision area include portions of the following areas: T35N, R32W; T35N; R31W; and T36N, R30W; PMM; Lincoln County, Montana.

The Kelsey Creek (2,770 acres), Roderick South (315 acres), and Upper Beaver (9,015 acres) fires burned within this project area in August 2000, ignited by lightning strikes. A total of over 12,100 acres burned in these fires with varying severity.

To meet the purpose and need, this project proposes:

1. Treatments in areas of high severity fire (70% or more mortality) and moderate severity (20–70% mortality) to reduce fuels, recover economic value of dead trees, and where appropriate trend forest vegetation toward mature forest:

Dead trees would be salvaged where economically feasible, while protecting other resources; mortality would be based on amount of crown scorch, and/or cambium and root damage. Approximately 60% of the Kelsey Creek and Upper Beaver fire acres and 30% of the Roderick South fire acres have been dropped from further consideration for harvest because they are either in riparian areas, low fire severity areas, in unsuitable MAs, or were previously harvested. The remaining acreage is being site-specifically reviewed for inclusion in the Proposed Action.

Salvage would be accomplished by helicopter logging, and by ground based logging systems. Treatment in the high severity fire areas would resemble a regeneration clearcut or seedtree harvest due to few surviving trees in the units. Treatments in moderate severity areas would vary depending on the amount of fire mortality. Where mortality is low (20–30%), treatment would be a light commercial thinning from below. Where mortality is moderate to high (30–70%), treatments would range from commercial thinning from below to shelterwood harvest. After harvest, fuels reduction and site preparation would be accomplished through machine piling and burning or underburning.

To expedite hydrologic and vegetative recovery from the fires, salvage harvest units in high severity fire areas would be planted. Salvage harvest units in moderate severity areas may or may not be planted depending on extent of harvest, species composition present, and availability of a desirable, natural seed source. Various native tree species would be planted, with an emphasis on blister rust resistant white pine which historically occurred in greater numbers in the Yaak than found presently.

Up to a total of 9 miles of temporary road may be built, averaging ½ mile in length. Temporary roads would be obliterated after post harvest activities are completed. Existing roads needed for haul may receive reconstruction work such as brushing, blading, road drainage work, and realignment.

To ensure protection of water, fish and wildlife habitat, and other resources, the following design criteria would be employed:

Soil, Water, Fisheries Protections: All harvest proposals will meet objectives in the Soil and Water Conservation Practices Handbook 2509.22 (USDA Forest Service, 1988). Harvest proposals will be designed to minimize peak flow conditions in watersheds already exceeding Forest Plan standards.

Wildlife Corridors: The maintenance of landscape-level connectivity and the minimization of fragmentation will be incorporated into the design of all harvest alternatives.

Old Growth Protection and Enhancement: Stands with potential to become mature forest will be managed in order to develop mature forest characteristics over time, including development of large tree size, complex stand structure, large down logs, large snags and multistoried closed canopy. To encourage this development, removal of understories killed by the fire may be necessary to reduce fuel levels and the risk of a lethal reburn. Post-fire designated old growth, and replacement old growth, will not be proposed for harvest.

Roadless Area Protection: No harvest or road construction is proposed in roadless areas.

Cavity Habitat, Small Mammal Habitat and Soils Protection: Retention of snags will be a priority in order to retain an acceptable level of both hard and soft snags and of downed woody debris for wildlife and hydrological purposes, and soil productivity. In regeneration harvest units, 6–20 trees per acre will be left as snags. Approximately 5–30 tons per acre of coarse woody debris would be left for long-term soil productivity and as small mammal habitat. Two to three small slash piles per acre would be left unburned to provide habitat for small mammals.

Threatened, Endangered, and Sensitive Species Protection: No salvage harvest would occur in areas where harvest would result in a ''will impact sensitive species * * * '' or ''likely to adversely affect threatened and endangered'' determination for these species.

2. Areas that experienced high severity fire, but are not salvaged may be planted, depending on wildlife requirements for cover, availability and type of seed sources and soil, hydrology and safety considerations. This includes past harvest units in which planted trees were destroyed by fire. Burned plantations with fuel loads that present a future fire risk to planted trees would be slashed and burned prior to replanting. These areas would be planted with various native tree species, with an emphasis on blister rust resistant white pine. Riparian areas that experienced high severity fire would be planted with a combination of native shrubs and trees. These revegetation activities may occur in high severity burn areas of the Mount Henry Roadless Area as well as areas outside this roadless area.

3. Watershed improvement activities would be implemented to reduce water routing and sediment transport from existing roads. This would be accomplished through application of Best Management Practices and activities such as outsloping, waterbarring, culvert replacement/removal or removal of the actual prism to restore a more natural surface flow pattern to the landscape. Road decommissioning and other watershed improvement activities will be identified and analyzed in the DEIS.

4. In order to implement this proposal and provide for grizzly bear security during the proposed activities, several miles of road currently restricted to public access would be opened for harvest activities and public use. To offset this, some roads that are currently open would be restricted. The Solo Joe road or the Basin Cr. road may be closed

in order to open the Turner Cr. road for salvage and reforestation activities. Several more roads may be identified for access management changes during the course of the analysis.

Range of Alternatives

The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed activities will be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

Preliminary Issues

Tentatively, several preliminary issues of concern have been identified. These issues are briefly described below:

Watershed and fisheries: Past management activities and wildfire events have resulted in predicted peak flows that exceed Forest Plan standards. Water Quality Limited Segments (WQLS), as defined by the state of Montana, exist within the analysis area. Though the intent of harvest and road construction design is to minimize additional impacts, there may be concerns that additional management activities could result in short-term increased peak flows and sediment production. While the intent is to maintain or improve long-term aquatic conditions, westslope cutthroat trout and other aquatic species may experience short-term impacts.

Wildlife: The proposed action could potentially reduce existing cavity habitat in snags and reduce suitable hiding cover for wildlife security.

Public Access: The implementation of the proposed action would change access within the Kelsey-Beaver Analysis Area and may affect the public's ability to use traditional routes.

Economic Value: Preliminary public comments expressed concern that the value of burned timber will be lost unless salvage logging occurs. Additional comment have voiced concern over the timeframe proposed for addressing salvage logging and expressed the need to recover the economic value of affected trees in a timely manner.

Decisions to be Made

The Kootenai Forest Supervisor will decide the following:

1. Whether or not to salvage timber and, if so, the selection and site-specific location of, appropriate timber management practices (silvicultural prescription, logging system, fuels treatment, and reforestation); road construction/reconstruction necessary to provide access and achieve other resource objectives; and appropriate mitigation measures.

2. Whether or not to revegetate riparian or other burned areas not harvested to expedite recovery.

3. Whether or not water quality improvement projects (including road decommissioning) should be implemented and, if so, to what extent.

4. Whether road access restrictions, or other actions, are necessary to meet wildlife security needs.

5. Whether or not project specific Forest Plan amendments are necessary to meet the specific purpose and need of this project, and whether those amendments are significant under NFMA.

6. What, if any, specific project monitoring requirements would be needed to assure mitigation measures are implemented and effective.

Public Involvement and Scoping

In November 2000, preliminary efforts were made to involve the public in looking at restoration and salvage opportunities within the fire areas. Comments received prior to this notice will be included in the documentation for the EIS. The public is encouraged to take part in the process and to visit with Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or organizations that may be interested in, or affected by, the proposed action. This input will be used in preparation of the draft and final EIS. The scoping process will include:

- Identify potential issues.
- Identifying major issues to be analyzed in depth.
- Identify alternatives to the proposed action.
- Explore additional alternatives which will be derived from issues recognized during scoping activities.
- Identify potential environmental effects of this project and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

Estimated Dates for Filing

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by July 2001. At that time EPA will publish a Notice of Availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA publishes the Notice of Availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The final EIS is scheduled to be completed by October 2001. In the final EIS, the Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and to applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations

The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS.

To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official

As the Forest Supervisor of the Kootenai National Forest, 1101 US Highway 2 West, Libby, MT 59923, I am the Responsible Official. As the Responsible Official I will decide if the proposed project will be implemented. I will document the decision and reasons for the decision in the Record of Decision. I have delegated the responsibility to prepare the EIS to

Michael L. Balboni, District Ranger, Three Rivers Ranger District.

Dated: March 5, 2001.

Bob Castaneda,

Forest Supervisor, Kootenai National Forest.

[FR Doc. 01–6123 Filed 3–12–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on March 27, 2001 at North Tahoe Conference, 8318 N. Lake Blvd., Kings Beach, CA. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held March 27, 2001, beginning at 9:00 a.m. and ending at 4:30 p.m.

ADDRESSES: The meeting will be held at North Tahoe Conference, 8318 N. Lake Blvd., Kings Beach, CA

FOR FURTHER INFORMATION CONTACT: Maribeth Gustafson or Jeannie Stafford, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Lake Tahoe Basin Executives Committees. Items to be covered on the agenda include: (1) Review and Approval of Urban Lot Subcommittee Report; (2) Review of the Federal Advisory Committee Draft on Federal Actions at Lake Tahoe; (3) public comment; (4) Review of the Consensus Process; (5) Status Report on the Environmental Improvement Program; and (6) Review of Proposed Letters on Air Quality and Co-location of North Tahoe Fire Department with the Forest Service. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: March 5, 2001.

Maribeth Gustafson,

Forest Supervisor.

[FR Doc. 01–6124 Filed 3–12–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Appointment to the Advisory Committee on Agriculture Statistics

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notification of appointment to the Advisory Committee on Agriculture Statistics.

SUMMARY: The Office of the Secretary of Agriculture, in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, announces members appointed to the Advisory Committee on Agriculture Statistics. Twelve open positions were filled on the twenty-five member committee with members selected to serve 2-year terms. Selections were from seven categories that cover a broad range of agricultural disciplines and interests. Appointed members by categories they represent are:

Consumer and Information Organizations—James Dennis Rieck, Winfield, IL. Educational Organizations—Ling-Jung (Kelvin) Koong, Corvallis, OR; Gumecindo Salas, Springfield, VA. Farm Services Organizations—John Irving Gifford, Rock Island, IL; Jack Charles Mitenbuler, Indianapolis, IN. Government Agencies—Robert Dale Epperson, Fresno, CA. National Farm Organizations—Mark W. Jenner, Mt. Prospect, IL; Ivan W. Wyatt, Cedar Point, KS. Producer and Marketing Organizations—Mary Ashby Pamplin, Reston, VA; Lee F. Schrader, West Lafayette, IN; Topper Thorpe, Castle Rock, CO. Professional Organizations—Walter J. Armbruster, Darien, IL.

COMMENTS: The duties of the Committee are solely advisory. The Committee will make recommendations to the Secretary of Agriculture with regards to the agricultural statistics program of the National Agricultural Statistics Service (NASS) and such other matters as it may deem advisable, or which the Secretary of Agriculture, Under Secretary for Research, Education, and Economics, or the Administrator of NASS may request. The Advisory Committee's next meeting will take place April 3–4, 2001, in the Washington, DC area. All meetings are open to the public. Committee members will be reimbursed for official travel expenses only.

ADDITIONAL INFORMATION: Questions should be e-mailed to *hq_aa@nass.usda.gov,* faxed to (202) 720–9013, OR telephoned to Rich Allen, Associate Administrator, NASS, at (202) 720–4333. All mailed correspondence should be sent to Rich Allen, Associate Administrator, U.S. Department of Agriculture, National Agricultural Statistics Service, 1400 Independence Avenue SW., Room 4117 South Building, Washington, DC 20250–2000.

Signed at Washington, DC, January 29, 2001.

R. Ronald Bosecker,

Administrator, National Agricultural Statistics Service.

[FR Doc. 01–6203 Filed 3–12–01; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Alma Mill Creek Watershed, Buffalo County, WI

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR part 1500); and the Natural Resources Conservation Service Regulations (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Alma Mill Creek Watershed, Buffalo County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Patricia S. Leavenworth, State Conservationist, Natural Resources Conservation Service, 6515 Watts Road, Suite 200, Madison, Wisconsin, 53719. Telephone (608) 276–8732.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Patricia S. Leavenworth, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purposes are gully, sediment and flood control. The planned works of improvement include the repair of pipe separations in the principal spillway of structures 2, 3 and 5, and removal of sediment from all three structures. Enactment of a county floodplain zoning ordinance will restrict future development within the hydraulic shadow of all three structures.

A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Sheryl B. Paczwa.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Patricia S. Leavenworth,

State Conservationist.

[FR Doc. 01–6208 Filed 3–12–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Bad Axe Watershed Supplemental Plan Number 6, Vernon County, Wisconsin

AGENCY: Natural Resources Conservation Service, Agriculture.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Bad Axe Watershed Supplemental Plan Number 6, Vernon County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Patricia S. Leavenworth, State Conservationist, Natural Resources Conservation Service, 6515 Watts Road, Suite 200, Madison, Wisconsin, 53719. Telephone (608) 276–8732.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Patricia S. Leavenworth, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project purpose is flood prevention. The planned works of improvement include the repair of the dam.

A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Sheryl B. Paczwa.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Patricia S. Leavenworth,

State Conservationist.

[FR Doc. 01–6209 Filed 3–12–01; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Wisconsin

AGENCY: Natural Resources Conservation Service (NRCS) in Wisconsin, U.S. Department of Agriculture.

ACTION: Notice of availability of a proposed change in Section IV of the FOTG of the NRCS in Wisconsin for review and comment.

SUMMARY: It is the intention of NRCS in Wisconsin to issue a revised conservation practice standard in Section IV of the FOTG. The revised standard is Filter Strip (Code 393). This practice may be used in conservation systems that treat highly erodible land.

DATES: Comments will be received on or before April 12, 2001.

FOR FURTHER INFORMATION CONTACT: Inquire in writing to Donald A. Baloun, Assistant State Conservationist, Natural Resources Conservation Service (NRCS), 6515 Watts Road, Suite 200 Madison, WI 53719–2726. Copies of this standard will be made available upon written request. You may submit electronic requests and comments to *dbaloun@wi.nrcs.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Donald A. Baloun, 608–276–8732.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Wisconsin will receive comments relative to the proposed change. Following that period, a determination will be made by the NRCS in Wisconsin regarding disposition of those comments and a final determination of change will be made.

Dated: February 26, 2001.

Patricia S. Leavenworth,

State Conservationist, Madison, Wisconsin.

[FR Doc. 01–6207 Filed 3–12–01; 8:45 am]

BILLING CODE 3410–16–P

AMTRAK REFORM COUNCIL

Notice of Meeting

AGENCY: Amtrak Reform Council.

ACTION: Notice of Special Public Business Meeting and Press Conference in Washington, DC.

SUMMARY: As provided in section 203 of the Amtrak Reform and Accountability Act of 1997 (Reform Act), the Amtrak Reform Council (Council) gives notice of a special public meeting of the Council. The business meeting will begin at 9:30 a.m. The Council's agenda for business meeting includes formal adoption of the Second Annual Report, election of Chairman and Vice-Chairman, and discussion of goals and schedules for upcoming business meetings.

During the Press Conference, which will begin at 10:30 a.m. at the same location, the Council will release its Second Annual Report to Congress. The press conference will open with a statement from the Chairman, Gilbert E. Carmichael, followed by a briefing on the key features of the report, and statements by members of the Council. Following these statements, the Council will take questions from the press and the public.

DATES: The Business Meeting will be held on Tuesday, March 20, 2001 from 9:30 a.m. to 10:30 a.m., followed by a Press Conference from 10:30 a.m. to 12:00 p.m. Both events are open to the public.

ADDRESSES: The Business Meeting will take place in the Ballroom at the Phoenix Park Hotel on 520 North Capitol Street, NW., Washington, DC. The Ballroom is located on the first floor to the left of the front desk. The location is on the corner of North Capitol Street, NW., and Massachusetts Ave, NW. The nearest Metro Station is Union Station,

which is about a block away. Persons in need of special arrangements should contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Deirdre O'Sullivan, Amtrak Reform Council, Room 7105, JM–ARC, 400 Seventh Street, SW., Washington, DC 20590, or by telephone at (202) 366–0591; FAX: 202–493–2061. For information regarding ARC's upcoming events, the agenda for meetings, the ARC's First Annual Report, information about ARC Council Members and staff, and much more, you can also visit the Council's website at www.amtrakreformcouncil.gov.

SUPPLEMENTARY INFORMATION: The ARC was created by the Amtrak Reform and Accountability Act of 1997 (Reform Act), as an independent commission, to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms. In addition, the Reform Act provides: that the Council is to monitor cost savings from work rules established under new agreements between Amtrak and its labor unions; that the Council submit an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that, after a specified period, the Council has the authority to determine whether Amtrak can meet certain financial goals specified under the Reform Act and, if it finds that Amtrak cannot, to notify the President and the Congress.

The ARAA prescribes that the Council is to consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and the leadership of the Congress. Members serve a five-year term.

Issued in Washington, DC, March 6, 2001.

Thomas A. Till,

Executive Director.

[FR Doc. 01–6117 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC 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: U.S. Census Bureau.

Title: 2002 Census of Governments, Prelist Survey of Special Districts.

Form Number(s): G–24.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 1,520 hours.

Number of Respondents: 3,039.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Census Bureau requests OMB approval of data collection Form G–24. This form will be used to update the universe list of special district governments for the 2002 Census of Governments authorized by Title 13 of the United States Code. This form will be used specifically to verify the existence of special districts for the 2002 Census of Governments and to obtain current addresses and to identify new districts. The information requested on this form is identical to that requested in the prelist phase of the 1997 Census of Governments. The G–24 survey form will be imprinted with a list of known special districts within the areas of each of the 3,039 counties, consolidated city-county governments, and independent cities designated to receive the form. Respondents will use the G–24 form to update the listing by correcting the imprinted special district list and by reporting any additional districts. The mail canvass is supplemented by calls to major nonrespondents. Procedures, with the exception of using more advanced computer technology to generate the form imprinted with the list of known special districts, are the same as used for the 1997 Prelist Survey.

Affected Public: State, local, or Tribal government.

Frequency: Every 5 years.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 USC, Section 161.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Forms Clearance Officer, (202) 482–3129, Department of Commerce, room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at mclayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: March 8, 2001.

Madeleine Clayton,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–6167 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Decision of the Secretary of Commerce to Release the Tabulations of Population Reported to States and Localities Pursuant to 13 U.S.C. 141(c)

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice.

SUMMARY: On March 6, 2001, the Secretary of Commerce announced his acceptance of the recommendations of the Census Bureau and made a final determination that unadjusted data should be used in calculating the tabulations of population to be reported to States and localities pursuant to 13 U.S.C. 141(c). This notice publishes the Secretary's decision memorandum of March 7, 2001, providing the rationale for his determination.

FOR FURTHER INFORMATION CONTACT: Alden F. Abbott, Acting General Counsel, U.S. Department of Commerce, (202) 482–1328.

SUPPLEMENTARY INFORMATION: Through the Census Act, which is codified in title 13 of the United States Code, Congress has delegated to the Secretary of Commerce its broad constitutional authority to conduct the decennial census (see U.S. Constitution Art. I, Sec. 2, Cl.3). Included in the Census Act is a requirement for the Secretary to report tabulations of population to States and localities pursuant to 13 U.S.C. 141(c).

To meet this reporting requirement in connection with Census 2000, the Secretary decided the appropriate methodology to be used in calculating the tabulations of populations to be reported to States and localities for redistricting purposes. The procedural framework within which the Secretary made his decision is codified at Part 101 of Title 15, Code of Federal Regulations. Specifically, a committee of senior career officials of the Census Bureau reported to the Director of the Census. This committee unanimously recommended the release of unadjusted data. The Director of the Census forwarded to the Secretary of Commerce the committee's report along with the Director's concurrence in and approval of the committee's recommendation (66 FR 14004, March 8, 2001). In addition,

prominent non-Government statisticians and demographers each individually recommended to the Secretary the release of unadjusted data.

On March 6, 2001, the Secretary of Commerce announced his acceptance of the Census Bureau's recommendations and determined to release unadjusted data to the States for purposes of redistricting. Set forth below is the Secretary's decision memorandum of March 7, 2001, providing the rationale for his determination.

Dated: March 7, 2001.

Alden F. Abbott,

Acting General Counsel.

Decision of the Secretary of Commerce to Release the Tabulations of Population Reported to States and Localities Pursuant to 13 U.S.C. 141(c)

As Secretary of Commerce, I have the privilege of overseeing the Census Bureau and its decennial census activities. One of those activities is the production of population counts for State and local redistricting purposes, as required by the Census Act. Section 141(c) of the Census Act requires the Secretary of Commerce to complete and to report the tabulations of population to each State within one year after the decennial census date. For the 2000 decennial census, that deadline is April 1, 2001.

In conjunction with the actual enumeration conducted for the 2000 census, the Census Bureau also conducted an Accuracy and Coverage Evaluation (''A.C.E.'') and performed a detailed Demographic Analysis to evaluate the quality of the actual enumeration data. On March 1, 2001, the Acting Director of the Bureau of the Census, William G. Barron, Jr., forwarded to me the report and the recommendations of the Executive Steering Committee on A.C.E. Policy (ESCAP) regarding the data to be reported to the States as required by Section 141(c). The ESCAP was formed in November 1999 to ''advise the Director in determining policy for the A.C.E. and the integration of the A.C.E. results into the census for all purposes except Congressional reapportionment.'' The members of the ESCAP include twelve senior career Census Bureau professionals with advanced degrees and/or decades of experience in the Federal statistical system. Acting Director Barron is a member of the Committee.[1]

On October 6, 2000, the Department of Commerce delegated to the Director of the Census Bureau the final determination regarding the methodology to be used in calculating the tabulations of population reported to States and localities pursuant to 13 U.S.C. 141(c). This action also required the ESCAP to prepare a written report to the Director of the Census Bureau with a recommendation regarding the methodological decision. The delegation to the Director was revised on February 14, 2001, to provide that the Secretary of Commerce would make the final decision regarding the reporting of the redistricting data after receiving the recommendation, if any, of the Director of the Census Bureau, together with the ESCAP's report and the advice of other experts.[2]

After evaluating a wide variety of evidence relating to the accuracy of Census 2000, in its March 1, 2001 report, the ESCAP recommended that the actual enumeration data be released as the Census Bureau's official redistricting data. The ESCAP was unable to conclude that data adjusted by use of the A.C.E. methodologies would be more accurate than the unadjusted data. The Committee reached these conclusions for several reasons:

1. Demographic Analysis estimates indicated fundamental differences with the results of the A.C.E. These differences could not be explained within the time available and raised the possibility of an as-yet undiscovered problem in the A.C.E. or census methodology.

2. The Census Bureau evaluations of synthetic error found variable results. These variable results indicate that synthetic error could, in certain circumstances, affect the results of a comparison of the adjusted and unadjusted data.

3. The Census Bureau also identified potential balancing error that indicated a possible upward bias for the A.C.E. undercount estimates, the effect of which might be a reduction in the A.C.E.'s net undercount estimates.

Acting Director Barron has advised me that he concurs with and approves the Committee's recommendation. In addition, I asked six prominent non-Government statisticians and demographers with extensive experience and knowledge of the methodologies and issues before the ESCAP to review the Committee's report and recommendation. Each of these experts also has individually expressed concurrence with the Committee's recommendation.

After considering these views and the ESCAP report, I hereby accept the recommendation of both the Acting Director and the ESCAP Committee, and determine that the unadjusted census data produced in Census 2000 be reported to the States pursuant to Section 141(c) of the Census Act as the Census Bureau's official redistricting data.

Dated: March 7, 2001.

Donald L. Evans,

Secretary.

[FR Doc. 01–6115 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–07–U

[1] The ESCAP is composed of the following employees of the Bureau of the Census: (i) Deputy Director and Chief Operating Officer; (ii) Principal Associate Director and Chief Financial Officer; (iii) Principal Associate Director for Program; (iv) Associate Director for Decennial Census (Chair); (v) Assistant Director for Decennial Census; (vi) Associate Director for Demographic Programs; (vii) Associate Director for Methodology and Standards; (viii) Chief; Planning, Research, and Evaluation Division; (ix) Chief; Decennial Management Division; (x) Chief; Decennial Statistical Studies Division; (xi) Chief; Population Division; and (xii) Senior Mathematical Statistician.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–813]

Honey from Argentina: Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination on Honey from the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Dana Mermelstein or Doug Campau, Office of AD/CVD Enforcement VII, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–1391 and (202) 482–1395 respectively.

Preliminary Determination

The Department of Commerce (the Department) preliminarily determines that countervailable subsidies have been provided to producers and/or exporters of honey from Argentina. For information on the estimated countervailing duty rate, please see the

''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Petitioners

The petition in this investigation was filed on behalf of the American Honey Producers Association and the Sioux Honey Association (the petitioners).

Case History

On September 29, 2000, the Department received a countervailing duty petition filed in proper form on behalf of the American Honey Producers Association and the Sioux Honey Association. The Department initiated this countervailing duty investigation of honey from Argentina on October 26, 2000. The notice of initiation was published in the **Federal Register** on November 2, 2000. *See Notice of Initiation of Countervailing Duty Investigation: Honey from Argentina,* 65 FR 65835 (*Initiation Notice*). Since the initiation, the following events have occurred.

Due to the large number of producers and exporters of honey in Argentina, and based on discussions with the Government of Argentine (GOA) , the Department decided to solicit information from the GOA on an aggregate or industry-wide basis in accordance with section 777A(e)(2)(B) of the Act, rather than from individual producers and exporters. *See Memorandum to the File, Countervailing Duty Investigation of Honey From Argentina: Conducting the Investigation on an Aggregate Basis,* dated November 3, 2000, (*Aggregation Memo*). On November 9, 2000, we issued a countervailing duty questionnaire to the GOA. On November 22, 2000, the GOA submitted a letter claiming green box status pursuant to the WTO Agreement on Agriculture for twenty-seven of the programs under investigation (*see* ''Green Box Claims'' section below for a detailed discussion of these claims). On November 21 and 22, 2000, the Department conducted a questionnaire presentation in Argentina. *See Memorandum to the File, Honey from Argentina: Countervailing Duty Questionnaire Presentation in Buenos Aires,* dated December 4, 2000.

On December 5, 2000, petitioners made a timely request pursuant to 19 CFR 351.205(e) for postponement of the preliminary determination in accordance with section 703(c)(1) of the Tariff Act of 1930, as amended (the Act). Pursuant to section 703(c)(1)(A) of the Act, on December 15, 2000, the Department postponed the preliminary determination to March 5, 2001 (65 FR 78474).

On December 22, 2000, the Department issued an additional questionnaire addressing the GOA's green box claims. The Department received questionnaire responses from the GOA on January 2 and January 18, 2001. The Department issued supplemental questionnaires to the GOA on January 26 and January 31, 2001. The Department received the GOA's supplemental responses on February 14 and 16, 2001.

Scope of Investigation

For purposes of this investigation, the products covered are natural honey, artificial honey containing more than 50 percent natural honeys by weight, preparations of natural honey containing more than 50 percent natural honeys by weight, and flavored honey. The subject merchandise includes all grades and colors of honey whether in liquid, creamed, combs, cut comb, or chunk form, and whether packaged for retail or in bulk form.

The merchandise subject to this investigation is currently classifiable under subheadings 0409.00.00, 1702.90, and 2106.90.99 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and U.S. Customs Service (U.S. Customs) purposes, the Department's written description of the merchandise under investigation is dispositive.

In the scope section of the *Initiation Notice* for this investigation, the Department encouraged all parties to submit comments regarding product coverage by November 9, 2000. The Department did not receive any comments regarding scope.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Injury Test

Because Argentina is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Argentina materially injure, or threaten material injury to, a U.S. industry. On November 13, 2000, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is being materially injured, or threatened with material injury, by reason of imports from Argentina of the subject merchandise (64 FR 41458). The views of the Commission are contained in USITC Publication 3369 (November 2000), *Honey from Argentina and China; Investigations Nos. 701–TA–402 and 731–TA–892–893 (Preliminary).*

Alignment with Final Antidumping Duty Determination

On February 27, 2000, petitioners submitted a letter requesting alignment of the final determination in this investigation with the final determination of the antidumping duty investigation of honey from the People's Republic of China. *See Initiation of Antidumping Duty Investigations: Honey From Argentina and the People's Republic of China,* 65 FR 65831 (November 2, 2000). In accordance with section 705(a)(1) of the Act, we are aligning the final determination in this investigation with the final determination in the companion antidumping investigation of honey from the People's Republic of China.

Period of Investigation

The period for which we are measuring subsidies (the period of investigation or POI) is calendar year 1999.

Aggregation

Under section 777A(e)(2)(B) of the Act, the Department may calculate a single country-wide rate applicable to all exporters if the Department determines it is not practicable to determine individual countervailable subsidy rates due to the large number of exporters or producers involved in the investigation or review.

In the current countervailing duty investigation of honey from Argentina, petitioners' allegations show that there are between 18,000 and 20,000 honey producers in Argentina (*see* p. 20 of the petition, citing to the Argentine National Statistics Office, export statistics for 1998). Further information provided by the GOA indicates that there are approximately 25,000 honey producers in the country. (*See Aggregation Memo.*) The GOA also expressed concern, in meetings with the Department, about the difficulty of identifying individual producers, and the producers' ability to provide information. Thus, due to the extremely large number of honey producers subject to this investigation and the complexities associated with identifying and investigating individual producers, the Department determined that it

would not be practicable to investigate alleged countervailable subsidies received by individual honey producers and exporters in Argentina. In making this decision, it was our understanding that the GOA would be in a position to provide the information on an aggregate basis that would be necessary to conduct our subsidy analyses. Accordingly, we are following the statutory provision that permits the Department ''to determine a single countrywide subsidy rate to be applied to all exporters and producers.'' *See* section 777A(e)(2)(B) of the Act. *See also Aggregation Memo.*

Green Box Claims

In accordance with section 771(5B)(F) of the Act, the Secretary will treat as non-countervailable domestic support measures that are provided with respect to certain agricultural products listed in Annex 1 of the WTO Agreement on Agriculture (Agriculture Agreement), provided such measures conform to the criteria of Annex 2 of the same agreement. Furthermore, in accordance with section 351.522(a) of the Department's regulations, the Department will determine that a particular domestic support measure conforms fully to the green box criteria in the Agriculture Agreement if it finds that the measure (1) is provided through a publicly-funded program (including government revenue foregone) not involving transfers from consumers; (2) does not have the effect of providing price support to producers; and (3) meets the relevant policy-specific criteria and conditions laid out in Annex 2 of the Agriculture Agreement. According to § 351.301(d)(6) of the Department's regulations, a claim that a particular agricultural support program should be accorded green-box status under section 771(5B)(F) of the Act must be made by the competent government with the full participation of the government authority responsible for funding and/or administering the program. Because the GOA, in consultations prior to initiation of this investigation had indicated that most of the alleged programs met the criteria for green box treatment, the Department, in its initial questionnaire cover letter issued on November 9, 2000, gave the GOA specific instructions for submitting claims that programs meet the requirements of Annex 2. The Department also addressed green box issues in its questionnaire presentation in Argentina, on November 20 and 21, 2000.

As noted in the ''Case History'' section, on November 22, 2000, the GOA submitted a letter claiming green box status for twenty-seven of the programs under investigation. This letter made reference to the specific paragraph(s) of Annex 2 with which the particular programs were claimed to conform. The Department issued a questionnaire addressing the GOA's claims on December 22. In its January 18, 2001 response, the GOA reduced to three the number of programs for which it is claiming green box status. The three remaining programs for which the GOA claims green box status are the PROMEX Consortium for Honey Exportation (PROMEX), PROAPI, and the Law 22,913 Emergency Aid program. The Department issued a supplemental green box questionnaire on January 31, 2001, and the GOA submitted its response on February 16, 2001. The green box issues with respect to each of these programs are discussed in the relevant program-specific sections below.

Use of Facts Available

Section 776(a)(2)(B) of the Act states the Department ''shall use facts otherwise available in reaching the applicable determination'' if an interested party ''fails to provide the information requested in a timely manner and in the form required.'' For several programs (discussed under the relevant programs below), the GOA did not provide all of the information requested by the Department and needed for a complete analysis. We must therefore resort to the facts otherwise available in reaching the applicable determination for those programs.

Furthermore, section 776(b) of the Act provides that in selecting from among the facts available, the Department may use an inference that is adverse to the interests of a party if it determines that a party has failed to cooperate to the best of its ability. In this investigation, the Department requested that the GOA submit information necessary to determine the potential countervailablity of the alleged subsidy programs and to calculate potential subsidy rates applicable to those programs. When the Department was making its decision to apply an aggregate methodology to this case, the GOA indicated that it would be in a position to provide the information on an aggregate basis that would be necessary to conduct our subsidy analyses.

For most of the programs, the GOA submitted sufficient information for the Department to conduct its analysis of the countervailablity of such programs and to calculate a benefit from those programs. However, for some of the programs, the GOA has not provided sufficient information for the Department to analyze at least one or more of the three elements that are necessary to determine whether a program is countervailable: (1) Specificity; (2) financial contribution; and (3) benefit. For these particular programs, and in light of the information the GOA did provide, we preliminarily determine that the GOA had the ability to provide the additional information, as requested. Therefore, we determine that, in these few instances, it is appropriate for us to make adverse inferences. *See* section 776(b) of the Act. The specific information that is lacking is discussed under the relevant program section below.

In selecting from the facts available, when the Department determines that an adverse inference is warranted, the statute indicates that the Department may rely upon information derived from (1) the petition; (2) a final determination in a countervailing duty or an antidumping investigation; (3) any previous administrative review, new shipper review, expedited antidumping review, section 753 review, or section 762 review; or (4) any other information placed on the record. *See* 19 CFR 351.308(c). As adverse facts available in this preliminary determination, we have relied upon information derived from the GOA's questionnaire responses to supply missing information regarding the specificity, financial contribution, and/or benefit for certain programs. The Department's selection of the information used as adverse facts available is discussed in more detail in the program-specific sections below.

Subsidies Valuation Information

Allocation Period

Section 351.524(d)(2) of the Department's regulations states that we will presume the allocation period for non-recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned, as listed in the Internal Revenue Service's (IRS) 1977 Class Life Asset Depreciation Range System, as updated by the Department of Treasury. The presumption will apply unless a party claims and establishes that these tables do not reasonably reflect the AUL of the renewable physical assets for the company or industry under investigation, and the party can establish that the difference between the company-specific or country-wide AUL for the industry under investigation is significant.

No party requested, or submitted information which yielded, an industry-

wide AUL different from the AUL listed in the IRS tables. We are therefore using the 10-year AUL as reported in the IRS tables to allocate any non-recurring subsidies under investigation.

Loan Benchmark Interest Rates

In selecting benchmark interest rates for use in calculating the benefits conferred by the various loan programs under investigation, we would normally look for the interest rate a borrower had received on a comparable commercial loan. *See* 19 CFR 351.505(a)(3)(i). However, since we are conducting this investigation on the aggregate level, and we are not examining individual companies, we have sought information on the national average interest rates for comparable commercial loans. *See* 19 CFR 351.505(a)(3)(ii). The GOA provided information compiled by the Central Bank of Argentina showing the national average interest rates for various types of financing: Fixed-rate and variable-rate; denominated in Argentine pesos or in foreign currency; long-term or short-term; and secured and unsecured. For each loan program found to be countervailable, we have selected a benchmark from the information provided depending upon the terms and characteristics of the particular loan program.

As discussed in the individual loan program sections below, many of the investigated loan programs require the borrower to provide a guarantee and pay commissions and other administrative fees. When we asked the GOA to provide information about fees normally charged on loans by commercial banks, the GOA indicated that many such fees are applied, but provided no indication of the rates or the values of such fees. As such, we are not able to calculate effective interest rates, which we would normally do by taking account of all such fees and commissions on both the actual loans and the benchmark loans. Thus, when calculating the benefits from countervailable loans, we have compared the loans' nominal interest rates to nominal benchmark interest rates.

Denominator Issues

The GOA has provided information for the POI relating to the total volume of honey produced in Argentina, the volume and value of total honey exports, and the volume and value of exports of honey to the United States. They have also broken down, where possible, the export volumes and values according to the province in which the honey was produced. However, the GOA was unable to provide information relating to total sales of honey during the POI. As a proxy for total sales information, the GOA provided data showing the volume of honey production by province during the POI. However, no data was provided showing the value of production. We have estimated the value of the total production reported by the GOA using the volume and value data provided for exports to the United States. We divided the value of Argentine honey exports to the United States by the volume of those exports to calculate a per kilogram value in U.S. dollars. (We note that, throughout the POI, the exchange rate was one U.S. dollar equal to one Argentine peso.) We then multiplied this per kilogram value by the provincial production data provided to arrive at the value of total Argentine honey production during the POI. We have used this estimated total production value as our denominator when calculating the subsidy from federal domestic programs and we have used the relevant provincial production value as our denominator when calculating the subsidy from domestic subsidies provided at the provincial level; and, we have used the total or provincial export values, as reported, as our denominators when calculating the subsidy from programs we have determined to be export subsidies.

To determine the final subsidy from each provincial program that is attributable to exports of honey to the United States we applied the following methodologies: (1) For provinces for which we have reported export data, we weight-averaged the subsidies from each provincial program by multiplying each subsidy by that province's share of total honey exports, by value, to the United States during the POI; and (2) for provincial domestic subsidy programs in provinces that do not have reported exports of honey to the United States during the POI, but do have reported honey production during the POI, and for which the GOA did not specifically report that that province had no exports to the United States, we divided the benefits by the value of total Argentine honey production during the POI.

Based upon our analysis of the petition and responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined to be Countervailable

A. Federal Programs

1. Argentine Internal Tax Reimbursement /Rebate Program (Reintegro)

The Reintegro program entitles Argentine exporters of honey produced in Argentina to a rebate of many internal or domestic taxes that are levied during the production and distribution process in Argentina on the finished export product. The Reintegro program provides a cumulative tax rebate paid upon export, calculated as a percentage of the FOB invoice price of exported product.

According to the questionnaire responses, the GOA established a rebate system in 1971, which was known as the ''reembolso'' program. In 1986, Decree 1555/86 was promulgated to implement the reembolso program in a manner consistent with the General Agreement on Tariffs and Trade. In May 1991, the GOA issued Decree 1011/91, which renamed the reembolso program as Reintegro and modified the legal structure of the program. Under Decree 1011/91, Reintegro rebated indirect taxes only. Decree 1011/91 has been the relevant governing decree since 1991. The nature and structure of the program have remained unchanged since then, although the Ministry of Economics modifies Reintegro rebate levels from time to time. Exports of bulk and processed honey have been eligible for Reintegro since at least August 1996.

The Reintegro rate applicable to bulk honey was 4.1 percent from February 1998 through April 2000. The Reintegro rate applicable to processed honey was 8.1 percent from February 1998 until August 1999, when it increased to 10 percent. In April 2000, the Reintegro rate for bulk honey increased to 5.4 percent while the rate for processed honey increased to 12 percent.

The Reintegro is specific under section 771(5A)(B) of the Act because it is contingent upon export performance. The Reintegro confers a financial contribution in the form of a direct transfer of funds from the GOA to exporters of the subject merchandise. (*See* Section 771(5)(D)(i) of the Act.)

To determine whether a benefit exists for a tax rebate program, the Department will normally examine whether the amount remitted or rebated exceeds the amount of prior-stage cumulative indirect taxes paid on inputs that are consumed in the production of the exported honey, making normal allowances for waste, and if there is an excess, will find it to be the benefit. (*See* § 351.518(a) of the Department's regulations.) However, there is an exception to this rule under § 351.518(a)(4)(i–ii) of the Department's regulations. Section 351.518(a)(4)(i–ii) states that the Department will consider the entire amount of the tax rebate or remission to confer a benefit unless the Department finds that:

(i) The government in question has in place and applies a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts, and to confirm which indirect taxes are imposed on these inputs, and the system or procedure is reasonable, effective for the purposes intended, and is based on generally accepted commercial practices in the country of export; or

(ii) If the government in question does not have a system or procedure in place, if the system or procedure is not reasonable, or if the system or procedure is instituted and considered reasonable, but is found not to be applied or not to be applied effectively, the government in question has carried out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, in what amounts and which indirect taxes are imposed on the inputs.

In both our original and supplemental questionnaires, we asked the GOA to describe the system or procedures that it had used to establish the appropriate level of Reintegro for bulk and processed honey (*i.e.*, how it had initially determined that honey exporters were entitled to a rebate, and how it determined the level of rebate including the goods consumed in production and the indirect tax incidence on those goods). The GOA responded that for certain sectors (*e.g.*, steel and textiles), it monitors and evaluates which inputs are consumed in the production of the exported products and in what amounts, and confirms which indirect taxes are imposed on these inputs through the collection of production and tax incidence information from representative producers. However, the GOA reported that it does not have the resources necessary to monitor the tax incidence of numerous representative honey producers. Instead, the GOA stated that its approach to the honey sector has been to gather information from the private sector, and the agricultural and tax authorities. The GOA claimed that this information is then corroborated through publicly-available sources and through studies done by independent third parties.

The GOA explained that the Directory for Industrial Alimentation of the Agricultural Secretariat (SAGyP) is in constant contact with Provincial governments, honey producers, acopiadors (honey intermediaries who collect and consolidate raw honey from multiple producers for sale and export), and exporters. The GOA states that their communications with members of the honey sector take the form of phone calls, electronic mail, etc. The GOA submitted copies of written communications between it and the honey sector dated July 2000. These communications appear to be questionnaires to sample beekeeping costs, and responses to those questionnaires, from the Corrientes and Rio Cuarto zones.

In addition, the GOA submitted a study entitled ''Production, Industrialization, and Commercialization of Honey,'' prepared by the Federal Administration of Public Revenue (AFIP), and dated September 1997, which the GOA states is a ''study of the beekeeping sector.'' The GOA stated that the objective of this study was to provide AFIP agents with a guide to ''understanding the manner in which the taxpayers comply with their obligation to pay taxes'' and ''new alternatives for increasing the amount and efficiency of tax payments in the sector.'' The study's introduction is translated and describes the study as follows. Chapter I deals with the macroeconomic aspects, production system, and commercialization system of honey. Chapter II explains the motive for creating an inspection strategy and examples of tax evasion. Chapters I and II are not translated. Chapter III, which is partially translated, describes the inspection strategy recommended by the study.

Thus, this study appears to deal primarily with improving the efficiency of tax payments from the honey sector and increasing the tax compliance from the honey sector with respect to direct taxes. As such, it is not clear how this study is relevant to the establishment of the appropriate levels of Reintegro applicable to bulk and processed honey. In addition, the GOA did not explain how the guidelines listed in the 1997 AFIP study were, if ever, used to confirm the appropriate level of Reintegro for bulk and processed honey.

The information and documentation submitted by the GOA does not demonstrate that the government had, or has, in place a system or set of procedures to confirm which inputs are consumed in the production of the exported products and in what amounts, and to confirm which indirect taxes are imposed on these inputs. While the GOA apparently gathers various types of information from a number of sources about the honey sector and its production processes and costs, it has provided no evidence demonstrating that there was or is a system or set of procedures in place that is followed to determine the specific inputs consumed in production of honey and the indirect tax incidence on those inputs. Moreover, the GOA did not explain, let alone substantiate, the process through which it analyzed the general information collected on the honey industry to determine the specific Reintegro rate for bulk and processed honey exports. Therefore, we find that the requirements for non-countervailablity set forth in § 351.518(a)(4)(i) of the regulations have not been met.

However, as outlined in § 351.518(a)(4)(ii), even if the government does not have a system or procedure in place, it may still carry out ''. . . an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, in what amounts, and which indirect taxes are imposed on the inputs.''

In the questionnaire response, the GOA submitted a report entitled ''Reintegros for Argentine Honey Exports,'' prepared by EcoLatina, an independent third party, in December 2000. In commissioning the study, the GOA requested that EcoLatina calculate the incidence of indirect taxes on the average honey FOB price. The report presents information on the cost structure and tax incidence of what are described as a ''representative'' producer, acopiador (distributor), and exporter. However, the report does not address the cost structure and tax incidence for processed honey. In response to supplemental questions, the GOA stated that the cost structure and tax incidence data reported in the study are not based on the cost structure and tax incidence of specific producers, acopiadors, and exporters. Rather, the cost structure and tax incidence were constructed for a ''typical'' producer, acopiador, and exporter based on certain characteristics which the GOA relates to characteristics of the sector.

The GOA has stated that Argentine honey producers can be placed in several different groups depending on the level of dedication and on the number of hives. However, the GOA maintains that the main distinction among groups is between industrial producers and all others and that the characteristics of non-industrial producers are very similar.

In its narrative, the GOA has described the representative producer as a part-time producer who maintains 250 hives and has an alternative source of income. The report classifies honey producers by level of dedication to beekeeping and number of hives and indicates the percent of honey produced by each level of producer. Based on the criteria of the report, the ''representative

producer'' fits into the category described as having ''all personnel dedicated to beekeeping'' and having between 200 and 499 hives in production. This category accounts for only 24 percent of Argentine honey production. By contrast, the report indicates that 49 percent of Argentine honey is produced by producers described in the report as ''household beekeepers'' who have fewer than 49 hives. Moreover, the report indicates that 24 percent of Argentine honey is produced by producers described as having only a ''partial dedication to beekeeping'' and between 50 and 199 hives. As such, it is unclear how the producer level and the relative production level information detailed in the report supports the GOA's narrative description of what constitutes a representative Argentine honey producer. Thus, the ''representative producer'' which the GOA states is the ''basic assumption'' of the report apparently bears little resemblance to the household and partially-dedicated beekeepers which account for 71 percent of Argentine honey production.

We do not disagree that it would be an enormous burden for a government to collect the necessary data from the thousands of honey producers in Argentina or that the use of an alternative method for collecting the necessary information automatically invalidates the data. However, this report was not based on even a representative sample of actual companies, nor were its identification of inputs and indirect tax incidence (which had been collected from public sources) tested against actual company information or experience. Moreover, as noted in the report, tax incidence at the producer level accounts for the vast majority of the claimed indirect tax incidence on exports of Argentine bulk honey. As such, the report cannot be considered representative of the honey industry in Argentina, and, as such, it cannot meet the standard set forth in § 351.518(a)(4)(ii) that an examination of the ''actual'' inputs has been carried out.

Even if the report were to be considered an examination of the ''actual'' inputs involved, it does not demonstrate that the Reintegro is based solely on the indirect tax incidence on the inputs consumed in production. The report provided by the GOA includes a list of virtually all of the costs associated with production, distribution, and export of bulk honey and bases its calculation of indirect tax incidence on this list. The list contains numerous items, such as spare parts, transportation, and insurance, which cannot be considered to be consumed in the production of bulk honey. In our supplemental questionnaire, we asked the GOA to explain how it was determined that each of the costs listed for the representative producer, acopiador, and exporter could be considered to be inputs consumed in the production of bulk honey. In its supplemental questionnaire response, the GOA offered descriptions of eight general cost categories found at the producer level. The GOA did not explain or substantiate how it was determined that each of the costs listed for the representative producer, acopiador, and exporter could be considered to be inputs consumed in the production of bulk honey.

We also examined whether the listed taxes paid on the listed inputs were accurately characterized as ''indirect taxes'' paid on inputs consumed in the production of bulk honey. Some of the taxes in the report were described as Real Estate Tax, Minimum Prospective Income Tax, and Tax on Debt. In our supplemental questionnaire, we asked the GOA to explain how it was determined that each of the taxes listed for the representative producer, acopiador, and exporter in its report could be considered to be indirect taxes paid to be inputs consumed in the production of bulk honey. In its supplemental questionnaire response, the GOA simply made the conclusory statements that its report only considered indirect taxes and did not explain how it determined that each of the taxes listed for the representative producer, acopiador, and exporter in the report could be considered to be indirect taxes paid on inputs consumed in the production of bulk honey.

Furthermore, the report did not list any additional inputs or indirect taxes incurred in the production of processed honey. Accordingly, based on our analysis of the report and other information submitted by the GOA, the Department preliminarily determines, pursuant to § 351.518(a)(4)(ii) of the regulations, that the GOA has not carried out a ''reasonable examination'' of actual inputs involved to confirm which inputs are consumed in the production of exported bulk and processed honey, in what amounts, and which indirect taxes are imposed on those inputs. As such, the Department preliminarily determines that the entire amount of the Reintegro for bulk and processed honey confers a countervailable benefit.

Because we find the entire amount of the Reintegro for bulk and processed honey to be countervailable, we need not address the Reintegro's countervailablity under § 351.518(a)(2) of the Department's regulations.

Because the Reintegro is calculated as a percentage of the FOB value of the exports, the percentage rebated serves as the subsidy rate. To calculate a single subsidy rate for subject merchandise, which includes both bulk and processed honey, we weight-averaged the Reintegro rates for bulk and processed honey by the FOB value of exports to the United States of bulk and processed honey during the POI. Thus, we preliminarily determine that Reintegro provided a countervailable subsidy of 4.16 percent ad valorem.

In April 2000, the Reintegro rates for bulk and processed honey changed. These changes affected all firms that export subject merchandise and were effectuated by a change in the rebate schedule of the existing decree. These changes constitute program-wide changes in accordance with § 351.526(b)(1–2) of the regulations. Therefore, consistent with § 351.526(c)(1), for the purposes of establishing the cash deposit rate of estimated countervailing duties we have weight-averaged the Reintegro rates currently in effect (5.4 percent for bulk honey and 12 percent for processed honey) by the FOB value of exports of bulk and processed honey to the United States during the POI. The cash deposit rate applicable to this program is 5.48 percent ad valorem.

2. BNA Pre-Financing of Exports Regime for the Agriculture Sector

According to the questionnaire responses, the Pre-Financing of Exports Regime for the Agriculture Sector program was established by the Banco de la Nacion de Argentina (BNA), a government-owned bank. In our notice of initiation, we identified this program as Law 24,467 Short- and Long-term Export Financing based on petitioners' allegation and supporting documentation which indicated that such assistance was either being provided pursuant to Law 24,467, or that companies meeting the criteria in Law 24,467 were eligible for such assistance. In its questionnaire response, the Government of Argentina clarified that Law 24,467 is the Argentine law pertaining to small and medium-sized companies (PYMES). The GOA explained that only a few programs are explicitly provided for in Law 24,467 and that there have been budgetary constraints in fulfilling the legislative intent of the law. Therefore, ''. . . mechanisms which predated Law 24, 467 and which were already in place have been used to show some progress toward the goal of helping the small and

medium-sized companies in Argentina.'' (Questionnaire Response at 24). As such, assistance has been provided through other programs to fulfill the goal of Law 24,467 to assist small and medium-sized companies. Therefore, for certain programs identified as Law 24,467 programs in the notice of initiation, the GOA has identified the correct legislative or authorizing authority for the program, and clarified the title of the program. As reported in the questionnaire response, this program, the BNA Pre-Financing of Exports Regime for the Agriculture Sector, was established pursuant to Annex B to the BNA Circular No. 10715/I.

This line of credit is offered by BNA to final exporters, for the financing of agricultural exports. In addition to fulfilling the standard application process for seeking a loan before the BNA, the BNA requires all applicants to submit an irrevocable letter of credit opened to his/her order, or, in the alternative, a firm offer or firm purchase order stating the terms and conditions of the export transaction, or a confirmation obtained from the intervening broker. This line of credit is offered in U.S. dollars, at a variable interest rate tied to LIBOR plus a spread added by the BNA. The additional spread is calculated based on the credit risk of the borrower, as determined on a case-by-case basis by the BNA. Financing under this line of credit is available for up to 80 percent of the FOB value of the export goods. Financing can be granted for a maximum period of 180 days. During the POI, there were loans outstanding to honey exporters under this program.

We preliminarily determine that these lines of credit are specific within the meaning of section 771(5A)(B) of the Act because they are contingent upon export performance. Furthermore, a financial contribution is conferred in the transfer of funds through loans, under section 771(5)(D) of the Act.

To determine whether there is a benefit, we compared the interest rate charged on loans provided under this program to the commercial interest rates for loans that most closely resemble loans under this program. Based on this comparison, there is a difference in the amount the recipient of the loan pays and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. Thus, these lines of credit provide a benefit under section 771(5)(E) of the Act.

The GOA reported that there were five loans granted under this program to honey producers that were outstanding during the POI. Two of the loans were shown to have been for honey exports to a country other than the United States; two of the loans were shown to have been for honey exports to the United States; and, for the fifth loan, the GOA did not indicate the destination of the export shipment financed. Thus, in addition to the two loans specifically identified as providing financing for shipments to the United States, and because it appears that BNA loan records must contain information on the destination of the fifth loan, we have assumed adversely that the fifth loan also provided financing for honey shipments to the United States. The GOA reported all of the relevant loan information for these loans.

To calculate the benefit, we applied our standard short-term loan methodology, multiplying the difference between the actual interest rate and the benchmark interest rate by the loan principal amount and the number of days outstanding. We then divided the sum of the benefits from all loans by the value of honey exports to the United States during the POI. We thus preliminarily determine the countervailable subsidy for this program to be 0.044 percent ad valorem.

3. *BNA Financing for the Acquisition of Goods of Argentine Origin*

According to the questionnaire responses, the BNA established a line of credit for financing the acquisition of goods of Argentine origin for the agricultural sector. In our notice of initiation, this program was identified as the Law 24,467 Line of Credit for the Acquisition of New Capital Goods of Argentine Origin. However, the GOA has reported that this program is a BNA program for Financing the Acquisition of Goods of Argentine Origin. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

Under this program, the goods financed must be of Argentine origin, or must have a maximum foreign component of 40 percent. The financing is provided for up to five years, is limited to 80 percent of the purchase price, excluding VAT, and cannot exceed US$500,000 per borrower. The applicable interest rate is 11 percent. The BNA also charges an administration of guarantees fee for all investment and working capital loans offered for 90 days or more, which are secured with a mortgage, warrant, assignment of credit, third party surety bond, or a security interest in personal property.

A program that is contingent upon the use of domestic goods over imported goods, ''alone, or as 1 of 2 or more conditions,'' is an import substitution subsidy under section 771(5A)(C) of the Act. Because the goods for which financing is requested under this program must be of Argentine origin, or must have a maximum foreign component of 40 percent, we preliminarily determine that under section 771(5A)(C) of the Act, the BNA Line of Credit for the Acquisition of New Capital Goods of Argentine Origin is specific as an import substitution subsidy.

Loans under this program provide a financial contribution under section 771(5)(D) of the Act in the form of a transfer of funds. To determine whether there is a benefit, we compared the interest rate charged on loans provided under this program to the commercial interest rate for loans that most closely resemble loans under this program. Based on this comparison, there is a difference in the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. Thus, this line of credit provides a benefit under section 771(5)(E) of the Act.

To calculate the benefit, we used the following methodology. Because the GOA did not provide requested information regarding the specific loans to honey producers granted under this program that were outstanding during the POI, or information showing the aggregate value of loans outstanding to the honey industry under this program during the POI, we had to estimate, from other information on the record, the amount of loans to the honey industry that were outstanding during the POI under this program.

In the 1999 BNA annual report provided by the GOA, there is data showing the balance of all BNA lending (regardless of program) to the agricultural sector for the years ending December 31, 1998 and 1999. Absent any other information on the record, we have used this information to calculate a proxy for the loans provided to honey producers under this program. First, we determined the ratio of the value of honey production during the POI to the value of total Argentine agricultural production during the POI, based on information provided in the questionnaire responses. We have multiplied this ratio by the average balance of total loans outstanding to the agriculture sector during the POI (calculated by averaging the two year-end loan balance amounts) to estimate the average outstanding loan balance for all BNA lending to the honey sector.

Because this figure represents the total of all BNA lending to honey producers and because there are multiple BNA loan programs under investigation, we had to adjust this figure to derive the outstanding loan balance during the POI for loans to the honey industry under this program. First, because actual loan information was submitted for all loans provided to honey under the ''BNA Pre-Financing of Exports Regime for the Agriculture Sector,'' we subtracted that amount from the total amount that we calculated for all BNA loans outstanding to honey during the POI. The balance was then divided by the remaining number of BNA loan programs under investigation in order to estimate the outstanding loan balance from this particular BNA program.

Because these are long-term loans, the benefit is calculated by multiplying the outstanding loan balance during the POI by the difference between the interest rate charged under the program and the benchmark interest rate in accordance with section 351.505(c) of the regulations. We then divided this amount by the value of total honey production in Argentina during the POI. We thus preliminarily determine the countervailable subsidy from this program to be 0.173 percent ad valorem.

4. *Regional Productive Revitalization: National Program for the Promotion and Development of Local Productive Initiative* (Dinamizacion Productiva Regional Nacional de Promocion y Fomenta de la Iniciativa Productiva Local)

According to the questionnaire responses, the GOA established the Regional Productive Revitalization: National Program for the Promotion and Development of Local Productive Initiative (Regional Productive Revitalization Program) to strengthen the economies of small and medium-sized towns in the Argentine interior. In our notice of initiation, we identified this program as Law 24,467 Program for the Enhancement of Regional Production. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above). As reported in the questionnaire response, the Regional Productive Revitalization program was established by the Ministry of the Interior to improve the quality of life in small and medium-sized towns in the Argentine interior, and increase employment and incomes in these areas through the transformation and modernization of the local productive base. Individual projects are not eligible for this line of credit; only collective projects, involving three to five producers associated with the development of the project, are eligible. Eligibility is also contingent upon a two-year residency requirement in the area where the project is to be developed. The associated producers must also provide a guarantee covering 130 percent of the loan. The program provides credit for the acquisition of capital goods, technology, working capital, training needs, and technical assistance.

There are two levels of loans under this line of credit. The first level provides loans for municipal projects based in a single municipality for financing up to $200,000. The second level provides credit for inter-municipal projects that are based in more than one municipality. These projects are eligible for financing up to $1,000,000. These loans are granted at 8.0 percent interest, for a period of up to five years, with a grace period of up to 18 months. Interest accrues and is payable after the expiration of the grace period. There were loans to honey projects under this program outstanding during the POI.

We preliminarily determine this program to be specific under section 771(5A)(D) of the Act because the program is limited to only certain regions of Argentina. Enterprises or industries located within the provincial capitals are not eligible for use of this program. This program is therefore de jure regionally specific. This program provides a financial contribution in the form of a transfer of funds, as defined by section 771(D)(i) of the Act. To determine whether there is a benefit, we compared the interest rate charged on loans provided under this program to the commercial interest rates for loans that most closely resemble loans under this program. Because there is a difference in the amount the recipient of the loan paid on the loan and the amount the recipient would have paid on a comparable commercial loan during the POI, this line of credit provided a benefit during the POI under section 771(5)(E) of the Act.

The GOA reported that there were two loans outstanding to honey producers during the POI. The GOA did not report the dates that these loans were granted, or whether any interest or principal payments were made prior to or during the POI. Thus, we have made certain assumptions regarding the specifics of these loans in order to calculate the benefit: we assume that the loans were granted on January 1, 1999 and that during the POI, the loans are in the 18-month grace period on principal and interest repayment and the entire loan principal is outstanding during the POI. However, since interest is accruing during the grace period and will be payable thereafter, we have calculated the benefit by multiplying the principal outstanding during the POI by the difference between the loan interest rate and the benchmark interest rate. We then divided this benefit by the value of honey production in Argentina during the POI. Thus we preliminarily determine the countervailable subsidy from this program to be 0.055 percent ad valorem.

5. *BNA Warrant-Based Export Financing*

In our notice of initiation, we identified this program as Preferential Export Financing Based on Warrants based on petitioners' allegation and the supporting documentation which indicated that preferential financing was administered pursuant to Law 9643 and contingent upon export performance.

According to the questionnaire responses, the warrant is a financing instrument that was created by Law 9643/14 in 1914 to secure commercial lending transactions. A warrant and a certificate of deposit can be issued upon the storage of products in a certified warehouse, under certain conditions. Both the certificate of deposit and the warrant are negotiable instruments. The certificate of deposit is a legal title to the stored goods. A warrant is a financing instrument attached to the certificate of deposit, which may be used to secure commercial financing. Once detached from the certificate of deposit, the warrant can be pledged as collateral, thereby perfecting a security interest in the stored goods. A warrant can be pledged as collateral for a financing transaction if the owner of the instrument endorses it to the lending institution.

The GOA reported that the Argentine Small Business Association (the SePYME) has no substantive responsibility or regulatory authority over warrant-based financing and there is no specific warrant-based program in Argentina. However, the GOA indicated that the BNA, like other banks, offers warrant-based financing for a maximum term of 180 days. Furthermore, Law 9643 specifically indicates that warrant-based financing can be used as a form of export prefinancing. With no other information on the record to examine BNA's Warrant-Based financing, we preliminarily determine on the basis of facts available that the BNA provides warrant-based financing for export purposes.

The BNA Warrant-Based Export Financing program is a de jure specific export subsidy pursuant to section 771(5A)(B). These lines of credit

provide a financial contribution within the meaning of section 771(5)(D)(i) of the Act because they are in the form of a transfer of funds from the government.

To determine whether there is a benefit, we compared the interest rate charged on loans provided under this program to the commercial interest rates for loans that most closely resemble loans under this program. Based on this comparison, there is a difference in the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. Thus, this line of credit provides a benefit under section 771(5)(E) of the Act.

To calculate the benefit, we used the following methodology. Because the GOA did not provide information regarding the specific loans to honey producers granted under this program that were outstanding during the POI, or information showing the aggregate value of loans outstanding to the honey industry under this program during the POI, we had to derive, from other information on the record, the amount of loans to the honey industry that were outstanding during the POI under this program. Our methodology to derive the amount of loans to the honey industry that were outstanding during the POI from this BNA program is set forth in detail in the section on ''BNA Financing for the Acquisition of Goods of Argentine Origin'' above. After calculating the loans outstanding to the honey industry during the POI under this BNA program, we multiplied that amount by the difference between the benchmark and the program interest rate.

Because these are short-term loans, the product of the prior calculation is multiplied by the number of days the loan is outstanding divided by 365 days. We have assumed that these loans were outstanding for 180 days, the maximum term available for warrant-based financing. Because this program provides export financing, we then divided this amount by the total value of honey exports during the POI. We thus preliminarily determine the countervailable subsidy from this program to be 0.153 percent ad valorem.

6. *Fundacion Export*Ar*

The GOA's Fundacion Export*Ar (Export*Ar) program was established in 1995. Though it was originally funded through the United Nations Development Program (UNDP), the Argentine Foreign Ministry was the source of all funds provided during the POI. Export*Ar's objective is the promotion of Argentine exports. To achieve this objective, the program provides advice to small and medium-sized businesses, supplies information on international markets and purchasers, and organizes participation in trade missions, fairs, seminars and meetings. According to the GOA, all information services provided under Export*Ar are offered free of charge. Only participants in trade fairs must pay for their participation. Such participants must pay all costs associated with their participation, along with at least fifty percent of the cost of their stand. Export*Ar will pay the remainder of the stand cost.

According to the questionnaire responses, during the POI, general export promotion information, in the form of profiles and studies of potential markets, and reports on trade opportunities, was made available to members of the honey industry by Export*Ar. The honey sector also participated in one Export*Ar-sponsored overseas trade show during the POI. This trade show was held in the United States. Export*Ar provided a grant to the honey sector participant in that trade show to help offset the cost of that participant's exhibit stand.

Under § 351.514 of the regulations, general export promotion activities undertaken by the government are not countervailable if the activities consist of general informational activities that do not promote particular products over others. *See, e.g., Fresh Cut Flowers from Mexico,* 49 FR 15007 (1984). However, where such activities provided financial assistance to a firm, the Department has found the subject programs to be countervailable. *See, e.g., Fresh Atlantic Salmon from Chile,* 63 FR 31437 (1998); and *Fresh Atlantic Groundfish from Canada,* 51 FR 10041 (1986) (government funding of attendance at trade fair which targeted the exports of specific product to the U.S. market found to be countervailable); and *Fresh Cut Flowers from Israel,* 52 FR 3316 (1987) (government reimbursements of up to 50 percent of actual expenses incurred by the firm for promotional activities found to be countervailable).

Based on the information provided in the questionnaire responses, we preliminarily determine that the information services provided by Export*Ar on countries and markets and trade opportunities constitute general export promotion activities, and, as such are not countervailable in accordance with § 351.514 of the regulations. However, with regard to the financial assistance provided to honey producers/exporters during the POI to attend an overseas trade fair, we preliminarily determine that such financial assistance is not part of general export promotion activities, and is thus, countervailable within the meaning of section 771(5) of the Act. The financial assistance that was provided during the POI covered the costs associated with a stand at a trade fair in the United States. This financial contribution provides a benefit equivalent to the amount of the grant. The grants are also specific within the meaning of section 771(5A)(B) of the Act because their receipt is tied to the anticipated exportation of honey to the United States.

To calculate the subsidy, we divided the amount of the grant received during the POI by the value of honey exports to the United States during the POI. We preliminarily determine the countervailable subsidy for this program is 0.008 percent ad valorem.

7. *Line of Credit for the Acquisition of Industrial and Agricultural Machinery, Silos and Transportation Vehicles*

According to the questionnaire responses, the BNA established a line of credit for the Acquisition of Industrial and Agricultural Machinery, Silos and Transportation Vehicles in 1996. In our notice of initiation, we identified this program as Law 24,467 Additional Lines of Credit to Foment the Purchase of Capital Goods of Argentine Origin. As reported in the questionnaire response, the ''Acquisition of Industrial and Agricultural Machinery, Silos and Transportation Vehicles'' is not a Law 24,467 program, but rather a BNA program. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

Through this program, BNA aims to assist companies in the industrial, commercial, services, transportation, and agricultural sectors by providing financing for the purchase of capital goods of Argentine origin or of goods that have a maximum foreign component of 40 percent. To receive financing, the BNA requires all applicants to submit a pro-forma invoice indicating that the merchandise is of Argentine origin or has a maximum foreign component of 40 percent. Loan applications are evaluated by the standard criteria of creditworthiness established by the Argentine Central Bank, set forth by Circular No. 2180.

Under this line of credit, financing is limited to up to 75 percent of the purchase value, excluding the VAT, and must not exceed US $500,000 per application. Interest rates under this line of credit vary based on industry. Generally, the applicable interest rate for agricultural loans is 14.5 percent. Approved loans under this line of credit

are subject to an ''administration of guarantees'' fee, and a fee for the evaluation of investment projects. Repayments for the agricultural sector are amortized in equal installments, quarterly or biannually, based on the seasonal activity of the borrower. The repayment period is not to exceed five years.

We preliminarily determine that the Acquisition of Industrial and Agricultural Machinery, Silos and Transportation Vehicles line of credit is specific because it is an import substitution subsidy within the meaning of section 771(5A)(C) of the Act. This line of credit also provides a financial contribution under section 771(5)(D)(i) of the Act because the loans are a transfer of funds from the GOA.

To determine whether there is a benefit, we compared the interest rate charged on loans provided under this program to the commercial interest rates for loans that most closely resemble loans under this program. Based on this comparison, there is a difference in the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. Thus, this line of credit provides a benefit under section 771(5)(E)(ii) of the Act.

To calculate the benefit, we used the following methodology. Because the GOA did not provide requested information regarding the specific loans to honey producers granted under this program that were outstanding during the POI, or information showing the aggregate value of loans outstanding to the honey industry under this program during the POI, we had to derive, from other information on the record, the amount of loans to the honey industry that were outstanding during the POI under this program. Our methodology to derive the amount of loans to the honey industry that was outstanding during the POI from this BNA program is set forth in detail in the section on ''BNA Financing for the Acquisition of Goods of Argentine Origin'' above. After calculating the loan balance outstanding to the honey industry during the POI under this BNA program, we multiplied that amount by the difference between the benchmark and the program interest rate. We then divided this amount by the value of total honey production in Argentina during the POI. We thus preliminarily determine the countervailable subsidy from this program to be 0.027 percent ad valorem.

8. *PROAPI*

According to the questionnaire responses, the GOA established PROAPI as a project for honey sector research, development and technology transfer. In our notice of initiation, we identified this program as ''PROMEX/PROAPI Development Plan for the Enhanced Exportation of Honey'' based on petitioners' allegation and supporting documentation indicating that the aforementioned assistance was being provided under a program partially coordinated by PROMEX. According to the GOA, PROMEX is a separate export promotion program. PROAPI is not an export promotion program.

PROAPI was created by the National Institute for Agricultural and Livestock Technology (INTA) in 1995, and was initially funded by both INTA and the Argentine Technology Fund (FONTAR), an IDB-funded project. FONTAR provided a loan to PROAPI through the BNA, while INTA supplied an equivalent amount of in-kind services, equipment and overhead expenses.

According to the GOA, PROAPI has been self-sustaining since 1998, and now finances itself entirely through the sale of goods and services produced from the project. These goods and services are reportedly sold at market rates. Furthermore, according to the GOA, the terms of the IDB/FONTAR loan initially funding PROAPI require that PROAPI achieve a twelve percent rate of return, and that, because of this, PROAPI must make returns on sales greater than its costs.

The goods provided to honey producers under PROAPI during the POI were fertilized queen bees and a disease control product called ''BeeVar.'' The services provided during the POI were inspection and certification services for live beehive materials and sponsorship for trade fairs. However, when PROAPI sponsored trade fairs, it did so in name only; PROAPI did not provide benefits to individual trade fair participants or groups. According to the GOA, PROAPI is the only Argentine supplier of BeeVar, and of inspection and certification services for live beehive material.

On November 22, 2000, the GOA claimed green box status for the PROAPI program. According to the GOA, PROAPI is a general services program which qualifies for green box status under paragraphs 2(c), (d), and (f) of Annex 2 of the Agriculture Agreement. In order to determine whether the assistance provided under PROAPI qualifies for green box status under section 771(5B)(F) of the Act, we examined whether PROAPI met the criteria set forth in the Agriculture Agreement. As noted in the ''Green Box Claims'' section above, according to § 351.522 of the regulations, the Department will determine that a particular domestic support measure conforms fully to the green box criteria in the Agriculture Agreement if it finds that the measure (1) is provided through a publicly-funded program (including government revenue foregone) not involving transfers from consumers; (2) does not have the effect of providing price support to producers; and (3) meets the relevant policy-specific criteria and conditions laid out in Annex 2.

With regard to the first criterion of § 351.522, the GOA indicated that all monies used to initially fund this program came directly from public sources (*i.e.,* INTA and FONTAR). As for the second criterion of § 351.522, the GOA claimed that PROAPI does not have the effect of providing price support to producers, and is not tied in any manner to international or domestic prices. According to the GOA, producers must pay fees for all goods and services provided to them under this program. As for the third criterion of § 351.522, because the GOA claimed green box status for this program under paragraphs 1 and 2 of Annex 2, the assistance provided under PROAPI must meet the policy-specific conditions and criteria contained in those paragraphs.

According to paragraph 1 of Annex 2, domestic support measures for which exemption from the reduction commitments is claimed must meet the fundamental requirement that they have no, or at most minimal, trade-distorting effects or effects on production. The support in question must be provided through a publicly-funded government program not involving transfers from consumers. Furthermore, the support in question must not have the effect of providing price support to producers. In this case, as noted above, the GOA has reported that support under this program is provided through a publicly-funded government program not involving transfers from consumers. The GOA also reported that support provided under PROAPI is not tied in any manner to production or prices, and, in conjunction with the fact that users pay for the services provided under the program, could therefore not have trade-distorting effects or effects on production. Finally, the GOA has claimed that, since PROAPI is self-sustaining from fees paid by users of the program's services, these users do not receive any price support from the program.

According to paragraph 2 of Annex 2, government service programs for which exemption from the reduction commitments is claimed shall not

involve direct payments to producers or processors. These general service programs must meet both the general criteria in paragraph 1 of Annex 2 and the relevant policy-specific conditions set forth in paragraph 2. Although the GOA has argued that the entire PROAPI program meets the requirements for green box treatment, there are different and distinct types of assistance provided under PROAPI. Because there are different types of assistance, we must examine each one to determine whether it meets the green box requirements for domestic support measures.

With regard to inspection and certification services, the GOA reported that users pay for the inspection and certification services and receive no direct payments under the PROAPI program. In addition, the PROAPI inspection and certification services appear to conform to the policy-specific conditions set out in paragraph 2(e) of Annex 2. Although the GOA did not claim green box status under paragraph 2(e) specifically, paragraph 2 states that general service programs include, but are not restricted to, the services discussed in the illustrative list of subparagraphs (a) through (g). As this is an illustrative list, we may analyze the potential green box status of the support components of a program by considering all of the policy-specific conditions listed in paragraph 2. Thus, since the PROAPI inspection and certification services appear to conform to the policy-specific conditions set out in paragraph 2(e) of Annex 2, we preliminarily determine that the inspection and certification services component of PROAPI is entitled to green box status under section 771(5B)(F) of the Act.

The second type of assistance provided under PROAPI involves the sale of BeeVar, a disease control product, to honey producers. PROAPI is the only supplier of this product in Argentina. The GOA submitted proprietary information on the costs and sales prices charged by PROAPI for the BeeVar provided during the POI. Paragraph 2 of Annex 2 states that green box status may be granted to certain programs which ''. . . provide services or *benefits* to agriculture or the rural community'' (emphasis added). It is not clear whether goods could be considered ''benefits'' for purposes of government services programs under the Agreement. However, we need not reach that issue if we determine that the assistance in question is otherwise non-countervailable based on the statutory provisions.

With respect to the provision of goods, section 771(5)(E) of the Act provides that a benefit is conferred where goods or services are provided for less than adequate remuneration. In accordance with § 351.511(a)(2)(i) of the regulations, the adequacy of such remuneration is determined in relation to prevailing market conditions for the goods or services in the country which is subject to the investigation. Prevailing market conditions include price, quantity, availability, and other conditions of purchase. Under section 351.511(a)(2)(ii) of the regulations, if there is no usable market-determined price with which to make the comparison, we will seek to measure the adequacy of remuneration by comparing the government price to a world market price where it is reasonable to conclude that such a price would be available to purchasers in the country in question. Pursuant to § 351.511(a)(2)(iii) of the regulations, if there is no world market price available to purchasers in the country in question, the Secretary will normally measure the adequacy of remuneration by assessing whether the government price is consistent with market principles. Based on our analysis of the proprietary data provided by the GOA, we preliminarily determine that the sales prices set by PROAPI for BeeVar were consistent with market principles, and, as such, that PROAPI received adequate remuneration for the sale of BeeVar. Because we have determined that BeeVar is not provided for less than adequate remuneration, and, this element of the PROAPI program is not countervailable, we need not reach the issue of whether a good can be considered a ''benefit'' under the Agreement.

The third type of assistance provided under PROAPI involves the sale of fertilized queen bees. As discussed above with respect to BeeVar, even if goods could be considered ''benefits'' under paragraph 2 of Annex 2 of the Agreement, such benefits must meet the policy-specific conditions set forth in subparagraphs (a) through (g). Based upon our review, nothing in any of these paragraphs should be construed to cover the provision of a key component in the production of a specific product. The provision of a good, such as fertilized queen bees, involved in the production of honey, cannot be considered to be research (subparagraph a), pest and disease control (subparagraph b), training (subparagraph c), extension and advisory services (subparagraph d), inspection services (subparagraph e), marketing and promotion services (subparagraph f), or infrastructural services (subparagraph g). Accordingly, we preliminarily determine that the provision of fertilized queen bees cannot meet the green box requirements set forth in Annex 2, and we have analyzed whether the provision of queen bees is countervailable under the countervailing duty statute.

The provision of fertilized queen bees under PROAPI is specific to the honey industry pursuant to section 771(5A)(D)(iii) of the Act. The provision of fertilized queen bees provides honey producers with a financial contribution through the provision of goods and services under section 771(5)(D)(iii) of the Act.

As noted above, section 771(5)(E) of the Act provides that in the case of goods or services provided, a benefit is conferred where such goods and services are provided for less than adequate remuneration. The GOA did not provide information related to what factors affect market prices for fertilized queen bees, and how such factors apply to PROAPI's fertilized queen bees. However, the GOA did provide what are described as market prices in Argentina for fertilized queen bees. Since the average of the market prices reported by the GOA is higher than the price charged by PROAPI for fertilized queen bees, we preliminarily determine that the fertilized queen bees are sold by PROAPI for less than adequate remuneration in accordance with section 771(5)(E)(iv) of the Act. We calculated the benefit by subtracting the price PROAPI charged for its queen bees from the average market price. We divided this amount by the value of honey production in Argentina during the POI. We preliminarily determine the countervailable subsidy for this component of the PROAPI program to be 0.004 percent ad valorem.

B. Provincial Government Programs

1. Buenos Aires Honey Program

In 1996, the Province of Buenos Aires created the Buenos Aires (Bonaerense) Honey Program. The purpose of this program is to increase provincial honey production, and improve production efficiency and quality within the province's honey sector. Through the program, the Banco de la Provincia de Buenos Aires (Banco Provincia), a bank owned by the Province of Buenos Aires, provides two types of credit lines to honey producers in the province: the Line of Credit for Working Capital; and the Line of Credit for the Acquisition of Capital Goods. Eligibility for both credit lines requires honey producers to be

registered in the Province's Registry of Honey Producers.

a. *Line of Credit for Working Capital.* The Line of Credit for Working Capital enables beekeepers to finance their operating expenses. There are two elements of this line of credit. The first element offers US$15.00 per active producing beehive with no limit on the number of beehives. The term for repayment of the loan may not exceed nine months from the date of the loan. The principal and accrued interest are payable at the expiration of the repayment term. This line of credit also allows pre-production cash advances for the purpose of acquiring inert material for beehives. Financing in this case is limited to 50 percent of the value of the assets to be acquired, not exceeding US$30 per beehive. Repayment for cash advances must be made within 90 days of the date of the disbursement. The interest rates applied to this element are variable.

The second element of this line of credit provides that, if applicants demonstrate that the honey is for exportation, they can receive a lower interest rate. To receive the lower interest rate, beekeepers must submit a commitment letter stating that the honey obtained from the beehives for which financing is requested has been sold for export, and a letter issued by the purchaser of the honey indicating that it was acquired for export purposes. Loans under the first element of this line of credit for working capital are de jure specific under section 771(5A)(D)(i) of the Act because they are limited to honey producers. Loans under the second element constitute export subsidies under section 771(5A)(B) because receipt of the lower interest rate is contingent upon exportation. For both elements of this line of credit, a financial contribution is conferred in the transfer of funds through loans, under section 771(5)(D)(i) of the Act.

To determine whether there is a benefit, we compared the interest rate charged on loans provided under this program to the commercial interest rates for loans that most closely resemble loans under this program. Based on this comparison, there is a difference in the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. Thus, this line of credit provides a benefit under section 771(5)(E)(ii) of the Act.

To determine the benefit for those loans provided for exports, we multiplied the loan balance outstanding during the POI by the difference between the interest rate and the benchmark, and the number of days outstanding during the POI. We divided this amount by the value of honey exports from Buenos Aires. To determine the final subsidy that is attributable to exports of honey to the United States from this provincial program, we weight-averaged the subsidy from this program by multiplying the subsidy by the Province of Buenos Aires' share of total honey exports to the United States during the POI. We thus preliminarily determine the countervailable subsidy from this line of credit to be 0.002 percent ad valorem.

To determine the benefit from all other loans under the honey-specific element of this line of credit, we multiplied the balance outstanding during the POI by the difference between the interest rate and the benchmark, and the number of days outstanding during the POI. We divided this amount by the value of honey production in Buenos Aires during the POI, and then weight-averaged this rate by multiplying it by Buenos Aires' share of total exports of honey to the United States. We thus preliminarily determine the countervailable subsidy from this line of credit to be 0.012 percent ad valorem.

b. *Line of Credit for the Acquisition of Capital Goods.* The Line of Credit for the Acquisition of Capital Goods under the Buenos Aires Honey Program extends a line of credit for the acquisition of capital goods to beekeepers in the Province of Buenos Aires. This line of credit was implemented by the Banco Provincia through Circular ''A'' No. 13,854 in July 1997, pursuant to an agreement between the Banco Provincia and Banco de Inversion y Comercio Exterior S.A. (BICE), and utilizes funding provided through the BICE Norms 006 and 006/1. The BICE is a GOA entity which functions as a ''second-tier'' bank, lending money to other banks (both commercial and other government-owned or controlled banks) for the purpose of implementing government lending programs.

Beekeepers are able to finance the acquisition of capital goods and are eligible to receive financing for the acquisition of beehives, new nuclei, inert material, extraction and processing material, among other goods. Applicants must provide a technical-economic proposal to the Provincial Ministry of Agriculture, and must meet the standard requirements of creditworthiness of the Banco Provincia. Financing for this line of credit carries a maximum repayment term of five years. Interest and principal payments are scheduled annually or semiannually based on the seasonality of honey production. Interest rates are variable and are calculated based upon LIBOR, plus a spread imposed by the BICE and a spread added by the Banco Provincia. The spreads given by both the BICE and Banco Provincia vary depending upon the repayment schedule of the loan.

Because financing under this program is limited to honey producers, it is de jure specific within the meaning of section 771(5A)(D)(i) of the Act. Furthermore, a financial contribution is conferred in the transfer of funds through loans, consistent under section 771(5)(D)(i) of the Act. To determine whether there is a benefit, we compared the interest rate charged on loans provided under this program to the commercial interest rates for loans that most closely resemble loans under this program. Based on this comparison, there is a difference in the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. Thus, this line of credit provides a benefit, under section 771(5)(E)(ii) of the Act.

To calculate the benefit, we have multiplied the outstanding loan balance during the POI by the difference between the interest rate charged under the program and the benchmark interest rate. We then divided this amount by the value of honey production in Buenos Aires during the POI. To determine the final subsidy that is attributable to exports of honey to the United States from this provincial program, we weight-averaged the subsidy from this program by multiplying the subsidy by the Province of Buenos Aires' share of total honey export to the United States during the POI. We thus preliminarily determine the countervailable subsidy from this line of credit to be 0.117 percent ad valorem.

2. Entre Rios Honey Program: Law No. 7435/84

The Entre Rios Honey Program is a provincial honey development program originally established in 1984. As detailed in Law No. 7435/84, the program was designed to provide a wide range of services and support for promoting honey production in the province. However, according to the GOA, the only function performed by the Government of Entre Rios (GER) pursuant to Law No. 7435/84 is that it puts on presentations and exhibitions related to beekeeping activities throughout the province. The GOA provided a list of all such presentations

and exhibitions put on during the POI, along with an estimate of the average costs and expenses incurred by the GER in preparation of these events. According to the GOA, such events are open to the public, free of charge. There are no records of attendance at these events.

The Entre Rios Honey Program is de jure specific pursuant to section 771(5A)(D)(iii) of the Act because it is expressly limited in the law to the honey industry. It provides honey producers with a financial contribution through the provision of services under section 771(5)(D)(iii) of the Act.

Section 771(5)(E) of the Act provides that in the case of goods or services, a benefit is conferred where such goods and services are provided for less than adequate remuneration. The adequacy of such remuneration is determined in relation to prevailing market conditions for the goods or services in the country which is subject to the investigation. Prevailing market conditions include price, quantity, availability, and other conditions of purchase. We preliminarily determine that the provision of services under the Entre Rios Honey Program conferred a benefit to honey producers during the POI under section 771(5)(E)(iv) of the Act because all services were provided free of charge.

Because these exhibitions and presentations were provided free of charge, and because there are no other providers of similar services, there is no basis on which we can measure the benefit from the free provision of these services using a market-determined price. Therefore, for purposes of this preliminary determination, we are using the total of the costs incurred by the GER in preparation of the aforementioned exhibitions and presentations during the POI to determine the benefit.

To calculate the subsidy, we divided the costs incurred during the POI by the total value of honey production in Entre Rios during the POI. To determine the final subsidy that is attributable to exports of honey to the United States from this provincial program, we weight-averaged the subsidy from this program by multiplying the subsidy by the Province of Entre Rios's share of total honey exports to the United States during the POI. We thus preliminarily determine the countervailable subsidy from this line of credit to be less than 0.001 percent ad valorem.

3. Province of Chaco Line of Credit Earmarked for the Honey Sector

According to the questionnaire responses, the Ministry of Production in the province of Chaco, through Provincial Law No. 4320, issued Decree No. 2076/96 in December 1996, establishing an emergency line of credit following a natural disaster that affected the agricultural production of the province. Through this decree, the Ministry allocated a total of 830,000 pesos specifically to assist the affected beekeeping sector. Financing is provided by the Nuevo Banco del Chaco S.A. (Chaco Bank), acting as an agent of the Government of Chaco Province. Terms and conditions for this line of credit are in accordance with Resolution No. 196/96. To be eligible for this line of credit, beekeepers must have no outstanding debt with the Provincial Government. Each producer can receive a maximum of 10,000 pesos and the principal is repayable in four equal annual installments following a two-year grace period (interest is payable during the grace period). Funding is utilized for the purpose of acquiring capital goods for beekeeping activity. The interest rate is 12 percent plus applicable taxes. Qualified candidates for this line of credit are also subject to a 1.5 percent bank commission over the principal and a 2 percent commission to cover administrative expenses related to the loan. Additionally, in September 1999, 450,000 pesos was allocated under this program in accordance with Resolution No. 253/99, and offered under the same loan terms and conditions as described above.

Because this line of credit was created specifically to assist the beekeeping sector of the Province of Chaco, we preliminarily determine that it does not meet the provision of the regulations under which disaster relief is not countervailable. *See* 19 CFR 351.502(f). Because it is only available to beekeepers, we preliminarily determine that it is de jure specific in accordance to section 771(5A)(D)(i) of the Act. This line of credit provides a financial contribution because it is a transfer of funds in the form of loans within the meaning of section 771(5)(D)(i) of the Act. To determine whether there is a benefit, we compared the interest rate charged on loans provided under this program to the commercial interest rates for loans that most closely resemble loans under this program. Because these are long-term loans, we selected from information provided by the GOA a long-term benchmark from 1996 to apply to the 1996 tranche and a long-term benchmark from 1999 to apply to the 1999 tranche. Based on this comparison, there is a difference in the amount the recipient of the loan pays on the loan and the amount the recipient would have paid on a comparable commercial loan that the recipient could have actually obtained on the market. Thus, this line of credit is providing a benefit, under section 771(5)(E)(ii) of the Act.

For the loans granted pursuant to both the 1996 and 1999 Decrees, the GOA provided information about actual loans granted but did not indicate the actual principal outstanding during the POI. Thus, we are assuming that the entire principal was outstanding during the POI.

We determined the difference between the program interest rate and the benchmark interest rate and multiplied the differential by the loan principal outstanding during 1999. We have added the benefits from both tranches of loans and divided that amount by total Argentine honey production during the POI. (*See* ''Denominator Issues'' section above.) We thus preliminarily determine the countervailable subsidy from this line of credit to be 0.029 percent ad valorem.

4. Province of San Luis Honey Development Program

The San Luis Honey Development Program was created in 1990 by the Ministry of Social Development of the Province of San Luis. The purpose of the program is to promote honey production in underdeveloped geographic areas and to provide training to the citizens of San Luis on beekeeping activity. Eligibility for this program targets unemployed and under-employed people with little income, and with no access to credit. The program provides assistance in two forms: leasing agreements, and financing through several types of credit lines.

a. *Leasing Agreements.* When the leasing agreement program was created, it was carried out in two different stages each governed by a contract for rental of hives. The first stage was implemented by forming 10 groups of 10 people, all of whom received training. Each group received 10 beehives and colonies for five years. In addition, each group received equipment for the extraction of the honey produced. Repayment for the extraction equipment and beehives was made to the Bank of San Luis. The repayment terms for the beehives included 24 installments over a period of eight years, with a one-year grace period. Repayment terms for the extraction equipment involved two consecutive equal annual installments. The second stage of the program involved forming groups of 10 to 15 people, each of which received 150 beehives and 50 colonies. The

repayment terms for this element of the program required 15 quarterly payments over the course of five years, with a one-year grace period.

Because this program is only available to the honey industry in the Province of San Luis, we preliminarily determine that under section 771(5A)(D)(i) of the Act, the leasing agreement section of the San Luis Honey Development Program is de jure specific. While the participants in this program are required to repay the cost of the materials provided to them, there is no interest component involved. Although the activity under this program is described as leasing, it appears that companies simply receive the goods directly from the supplier and pay for them over time rather than borrowing money from a third party. However, they paid no interest even though they are allowed to pay for the goods over five years. Thus, this program essentially operates as an interest-free loan. As such, this program provides a financial contribution within the meaning of section 771(5)(D)(i) of the Act and it provides a benefit within the meaning of section 771(5)(E)(ii) because no interest is charged. The GOA did not provide any information on the value of the materials provided under the leasing agreement but did report the funding allocated for this program for each year since its inception in 1994. Thus, we are assuming that the total funding allocated was actually used. We calculated the benefit by treating each annual funding allocation as an interest-free loan. We estimated the loan balance outstanding during the POI by assuming equal annual principal payments, accounting for the grace period on principal repayment, and subtracting them from the total loan principal for each year the loan was outstanding. We selected as our benchmark a long-term interest rate for each of the years funding was allocated. Since the loans are interest-free, we multiplied the outstanding principal by the benchmark.

We summed the benefits provided by each year's loan, and divided that amount by the value of total Argentine honey production during the POI. (*See* ''Denominator Issues'' section above.) We thus preliminarily determine the countervailable subsidy from this line of credit to be 0.389 percent ad valorem.

b. *CFI Lines of Credit Provided Through the Banco de San Luis.* In addition to the leasing agreements provided under the San Luis Honey Development Program, there are multiple lines of credit made available through the Banco de San Luis within the framework of the Federal Investment Board (Consejo de Inversiones; CFI) Credit for Small Business Ventures program. (*See* discussion of ''Credit for Small Business Ventures'' below). The CFI established four lines of credit available to the beekeepers of the province, identified as Lines 600, 700, 900, and 950. Because these CFI lines of credit are made available only to the honey industry in the Province of San Luis, we preliminarily determine that under section 771(5A)(D)(i) of the Act, these CFI lines of credit are de jure specific. These lines of credit provide a financial contribution because they are transfers of funds from the GOA in the form of loans within the meaning of section 771(5)(D)(i) of the Act. To determine whether there is a benefit, we compared the interest rate charged on loans under each line of credit to a benchmark interest rate. Based on this comparison, there is a difference in the amount the recipient pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market. Thus, these lines of credit provide a benefit under section 771(5)(E)(ii) of the Act. The specifics of the four lines of credit are discussed below.

Funding under Lines of Credit 600 and 700 was available with a nine percent interest rate and with a repayment term of either two and a half years or four and a half years depending on the purpose of the loan. These two lines of credit were terminated in 1994 and 1995, respectively. The GOA has provided information for each loan granted under these two credit lines. However, the GOA did not provide any information, in response to our requests, about the principal balance outstanding during the POI. Thus, we have assumed that all loans were for a four and a half year term and made in 1995, and thus, principal remains outstanding during the POI. We estimated the loan balance outstanding during the POI by assuming equal annual principal payments, accounting for the grace period on principal repayment, and subtracting them from the total loan principal for each year the loan was outstanding. We selected as our benchmark a long-term interest rate for each of the years funding was allocated. Since the loans are long-term, we multiplied the outstanding principal by the difference between the benchmark and the loan interest rate to determine the benefit during the POI from Lines of Credit 600 and 700.

CFI Line of Credit 900 is another line of credit that is extended to the beekeepers in the Province of San Luis. Funding under this line of credit is also available with a nine percent interest rate and with a repayment term of either two and a half years or four and a half years depending on the purpose of the loan. This line of credit was terminated in 1997. However, documentation provided by the GOA demonstrates that loan balances for this line of credit were still outstanding during the POI.

CFI line of credit 950 has not been terminated and credit is still being extended to beekeepers within the Province. There are two elements to this line of credit. Under the first element, beekeepers with a minimum of 50 active beehives are eligible to receive funding. This line of credit provides loans for (1) the acquisition of beehives; (2) the construction of extraction chambers; (3) the construction of separation chambers; and, (4) the construction of plants for the production of material used for honey production. The maximum financing available depends upon the number of beehives per applicant. A beekeeper with 50 to 100 hives, can receive up to $5,000; a beekeeper with more than 100 beehives can receive up to $25,000. The repayment term for this line of credit is four and half years, with an 18-month grace period for the repayment of principal. The interest rate is 10 percent and the loan requires a guarantee in the form of a security interest or mortgage equal to 130 percent of the value of the acquired property. The total funding allocated for this line of credit is $500,000.

The second element of Line of Credit 950 is designed both for active beekeepers, and for individuals with beekeeping experience who are willing to start up a beekeeping business. The amount of financing provided depends upon the purpose of the loan. Loans are provided up to $25,000 for the acquisition of capital goods; up to $10,000 for working capital; and up to $2,000 for training. Repayment terms for this line of credit vary depending upon the purpose of the loan and the loans require a guarantee in the form of a security interest or mortgage equal to 130 percent of the value of the acquired property. The applicable interest rate is 9 percent. The total funding (both CFI and provincial funding) allocated under this line of credit total $1,000,000.

The GOA reported that all loans provided under lines 900 and 950 were included in the loan information reported under the ''Credit for Small Business Ventures'' (CFI) program (*See,* ''Programs Preliminarily Determined to be Not Countervailable'' section below). Therefore, to determine the benefit from Lines of Credit 900 and 950, we have extracted from the CFI list those loans that were listed as being provided to San Luis. While the loan information

specifies the original amounts of all of the loans which were granted to San Luis that were outstanding during the POI, the data provided did not indicate the actual loan balances outstanding during the POI for the San Luis loans. Thus, as facts available, we are assuming that the entire loan balance was outstanding during the POI. However, all loans granted under line 950 were granted in 1999 and are therefore still in the grace period for repayment of both interest and principal. In accordance with § 351.505(b), benefits resulting from countervailable loans are considered to have been received in the year in which the firm otherwise would have had to make a payment on the comparable commercial loan. Since the repayment terms on long-term commercial loans would not likely differ significantly from repayment terms on these loans, and since the first payments of interest and principal would occur after the POI, we preliminarily determine that no benefits were received during the POI from the loans provided under line 950 during the POI. To calculate the benefit from line 900 loans, we multiplied the difference between the interest rate under the line of credit and the benchmark interest rate by the outstanding loan balance.

To determine the subsidy from these various lines of credit, we summed the benefits calculated for Lines of Credit 600, 700, and 900 and divided that sum by the value of total Argentine honey production during the POI. (*See* ''Denominator Issues'' section above.) We thus preliminarily determine the countervailable subsidy from these lines of credit to be 0.055 percent ad valorem.

II. Programs Preliminarily Determined to be Not Countervailable

A. Federal Programs

1. BNA Line of Credit for Working Capital and Investment Purposes

According to the questionnaire responses, the BNA offers a line of credit to businesses for working capital and investment purposes. In our notice of initiation, we identified this program as Law 24,467 Preferential Lines of Credit for Working Capital Purposes. As reported in the questionnaire response, the BNA Line of Credit for Working Capital and Investment Purposes was established under BNA's own authority. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

This line of credit is offered to businesses in all economic sectors in Argentina, and to agricultural and livestock producers associated with agricultural cooperatives. The actual interest rate varies according to the transaction, and the maximum length of the loan is five years.

We preliminarily determine that these lines of credit are not de jure specific within the meaning of section 771(5A) of the Act. Thus, we analyzed whether the actual use of these lines of credit gives rise to de facto specificity under section 771(5A)(D)(iii) of the Act. However, based on the information provided in the questionnaire responses, these credit lines were used by a broad range of borrowers, both within and outside the agricultural sector, and there is no apparent concentration of lending to any group of borrowers. Thus, there is no basis for concluding that benefits under this program are de facto specific to an enterprise, industry or group of enterprises or industries under section 771(5A) of the Act. As a result, we preliminarily determine that the lines of credit offered under the BNA Line of Credit for Working Capital and Investment Purposes are not countervailable subsidies under section 771(5) of the Act.

2. Global Credit Program for Micro and Small Businesses

According to the questionnaire responses, the GOA established the Global Credit Program for Micro and Small Businesses to provide assistance to small businesses. In our notice of initiation, we identified this program as Law 24,467 Global Credit Program. As reported in the questionnaire response, the Global Credit Program for Micro and Small Businesses was established pursuant to an GOA/IDB agreement. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

The Global Credit Program for Micro and Small Businesses is administered by the Ministerio de Economia y Obras y Servicios Publicos (The Ministry of Economy and Public Services or MECON) through the Secretaria de la Pequena y Mediana Empresa (the Argentine Small Business Administration or the SEPyME). The SEPyME was established in 1992 to serve new and existing micro-and small businesses involved in primary or industrial production, or services. The goals of the program are to increase the access of micro-and small businesses to credit and technical assistance in an attempt to raise employment and income levels through increased productivity, and to develop and strengthen the technical support groups that supply training, technical assistance and other services to micro-and small businesses.

The GOA reported that the Global Credit Program for Micro and Small Businesses is funded entirely by the IDB and is administered by the Argentine Ministry of Economy. However, information provided in the GOA's exhibits suggests that this program is only partially funded by the IDB, with the balance of funding provided by the GOA. While eligibility for this program is limited to small and micro-enterprise companies involved in primary or industrial production, trade or the service sector in Argentina, in accordance with section 351.502(e) of the Department's regulations, a subsidy is not specific solely because the subsidy is limited to small firms or small and medium-sized firms. As such, we preliminarily determine that this program is not de jure specific. We analyzed whether the actual use of these lines of credit gives rise to de facto specificity under section 771(5A)(D)(iii) of the Act. Based on information submitted in the questionnaire responses, these credit lines were used by a broad range of borrowers and there is no apparent concentration of lending to any category of borrowers. Thus, there is no basis for concluding that benefits under this program are de facto specific to an enterprise, industry or group of enterprises or industries within the meaning of section 771(5A)(D)(iii) of the Act. As a result, we preliminarily determine that the lines of credit offered under the Global Credit Program for Micro and Small Businesses are not countervailable subsidies within the meaning of section 771(5) of the Act.

3. Credit for Small Business Ventures

According to the questionnaire responses, the GOA established the Credit for Small Business Ventures program to provide assistance to small businesses. In our notice of initiation, this program was identified as Law 24,467 Credit for Small Business Establishments. As reported in the questionnaire response, the Credit for Small Business Ventures program was established pursuant to Annex B to Circular BNA No. 10,111/1. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

The Federal Investment Board (CFI) administers the Credit for Small Business Ventures (Creditos para Microemprendimentos) program. The CFI is a government agency created through an agreement between Argentina's provinces, the municipality

of Buenos Aires, and the National Territory of Tierra del Fuego, Antarctic, and the Islands of the South Atlantic. The CFI program has as its objective promoting the development of small business ventures through the financing of economically viable projects designed to increase productivity, increase employment, and improve income distribution. Eligibility for this program is limited to applicants whose net worth does not exceed US$200,000 and who are planning economically viable projects designed to increase production and generally improve the welfare of the population. The CFI can finance up to 100 percent of the investment for acquisition of capital goods, working capital, and training. For capital goods, the CFI will authorize financing up to US$50,000, up to US$20,000 for working capital, and up to US$4,000 for training. The CFI will not authorize a combined sum for all three categories exceeding US$50,000. The repayment term for capital goods financing is up to four and one half years and the repayment term for working capital financing is up to two and one half years.

This financing is limited to small businesses, but under § 351.502(e) of the regulations, the Department will not regard a subsidy as being specifically provided solely because it is limited to small firms. However, even though this program cannot be considered de jure specific, we must analyze whether these lines of credit are de facto specific under section 771(5A)(D)(iii) of the Act. The GOA provided a list showing the distribution, by industry, of all lending provided under this program from 1992 through 1999. A number of agricultural industries, as well as numerous non-agricultural industries received CFI loans. Moreover, based on the information provided, no industry appears to be a predominant user of the program, or to have received a disproportionately large share of the subsidy. However, as discussed above in the section on the ''San Luis Honey Development Program,'' based on the information provided, it appears that some CFI funds are funneled through provincial authorities, including government-owned provincial banks. Where the information provided in the response indicated that CFI funds were allotted to provinces or provincial banks, and either the CFI designated that a line of credit was to be provided to a specific industry within the province, or the province decided how to expend those funds within the province, we have conducted a separate analysis of whether such loans—funded by the CFI, but for which recipients within the province are expressly designated by either the CFI or the province—are specific (*See,* ''San Luis Honey Development Program'' above). Except for those CFI loans for which the lending decision appears to be controlled by a provincial government or for which the CFI appears to have designated a specific group of recipients within the province, we preliminarily determine that CFI loans are not provided on either a de jure or de facto basis to a specific enterprise or industry or group thereof, and are, therefore, not countervailable.

4. National Income Tax Exemption Pursuant to Article 20(1) of Law 20,628

Based on our review of the questionnaire responses on this program, we preliminarily determine that this income tax program is the same program which was found not countervailable in *Carbon Steel Wire Rod from Argentina; Suspension of Investigation,* 47 FR 42393. As such, we preliminarily determine that this program is not countervailable.

5. Law 22,913 Emergency Aid/ Emergency Agricultural and Livestock Law

In 1983, Law 22,913 established an agricultural disaster relief program administered by the National Commission on Agricultural Emergencies (CNEA). The purpose of the program is to provide financial, tax and transportation relief to areas designated to be in a state of emergency or state of disaster. When there is a natural or weather-related disaster, provincial authorities can declare a state of emergency or state of disaster and present information related to the emergency or disaster to the CNEA. After reviewing the information, the CNEA makes a recommendation to the Ministry of Economy regarding whether to issue a national decree. Article 5(a) of Law 22,913, states that the CNEA can declare an agricultural emergency or disaster when ''weather related, telluric, biological or physical factors . . . unforeseeable or inevitable'' seriously impedes the agricultural production or the capacity to produce in a region.

Any agricultural and livestock producer is eligible for emergency aid when its province is certified as an emergency or a disaster area. Producers who experience a loss of at least 50 percent of production capacity are eligible to receive benefits for emergency relief. Producers with a minimum loss of 80 percent receive disaster relief. Assistance under this program is provided in the form of loans at preferential rates and tax benefits. Beneficiaries can receive a deferral of taxes owed, an exemption from taxes owed, and deductions from earnings from forced sales. According to the GOA, the most common form of tax relief given is tax deferrals. In addition, an affected agricultural producer who receives a certificate from the provincial authority after an emergency has been formally declared can receive loans at preferential rates from the BNA.

We preliminarily determine that Law 22,913 is not a countervailable subsidy in accordance with Department's regulations. According to section 531.502(f) of the regulations, the Department will not find disaster relief countervailable when ''such relief constitutes general assistance available to anyone in the area affected by the disaster.'' The GOA has provided information that its emergency/disaster aid is provided in this manner. The GOA claimed that Law 22,913 was entitled to green box treatment and was therefore not countervailable. However, because we preliminarily determine that this program is not a countervailable subsidy under section 351.502(f), we do not need to examine the GOA's green box claim.

B. Provincial Government Program

Exemption from Municipal Gross Income Tax Contingent on Export Activity Pursuant to Article 116(12) of Law 150 (Buenos Aires Gross Income Tax Exemption)

Article 109 of Law 150 (the Buenos Aires Tax Code), provides that a levy on gross income will be imposed upon each transaction of commerce, industry, professional services, or any other business activity which occurs in the City of Buenos Aires. The GOA reported that the gross income tax is an indirect tax levied on each transaction which constitutes the taxpayer's revenue stream. The GOA states that the gross income tax on sales of bulk and processed honey occurring within the City of Buenos Aires is 1.5 percent.

Article 116(12) of the Buenos Aires Tax Code provides that revenue obtained from exports is exempt from the application of the local gross income tax. The City of Buenos Aires exempted export revenues from this indirect tax in order to prevent the tax from increasing the export price of Argentine products. The GOA states that ''rather than require payment and then pay a rebate,'' the exemption ''arises automatically upon completion of the tax forms by the exporter, who simply applies zero tax rate to revenues obtained from all export transactions.'' The GOA contends that

the exporter must provide copies of documentation related to the export sales *e.g.,* commercial invoice, bill of lading, etc., in order to enable the local tax authorities to verify that a specific transaction is entitled to an exemption.

Section 351.517(a) of the Department's regulations states that in the case of an exemption upon export of indirect taxes, a benefit exists only to the extent that the Department determines that the amount exempted ''exceeds the amount levied with respect to the production and distribution of like products when sold for domestic consumption.'' Information on the record of this review indicates that gross income tax is an indirect tax levied on business transactions for export and that the amount exempted by the Buenos Aires Gross Income Tax Exemption does not exceed the amount levied with respect to the production and distribution of like products when sold for domestic consumption. Therefore, the Department preliminarily determines that, for purposes of this investigation, the Buenos Aires Gross Income Tax Exemption does not confer a countervailable benefit. We note that if we had found the Reintegro to be not countervailable (see section on ''Reintegro'' in ''Programs Preliminarily Determined to be Countervailable,'' above), this exemption from a final stage indirect tax would need to be reexamined to ensure that exporters in the city of Buenos Aires were not receiving both a rebate of these same indirect taxes under the Reintegro program (which includes a rebate of both prior stage and final stage indirect taxes upon export) as well as an exemption of these indirect taxes upon export.

III. Programs Preliminarily Determined to be Not Used

A. Federal Programs

3. BICE Norm 011: Financing of Production of Goods Destined for Export

According to the questionnaire responses, the GOA established the BICE Norm 011 program to provide assistance to small businesses. In our notice of initiation, we identified this program as Law 24,467 Short-Term Financing, Including Pre-Financing of Export Sales. As reported in the questionnaire response, this type of financing is provided by the BICE. (See discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

Through Norm 011, the BICE offers a line of credit which finances the production of goods destined for export as well as the transformation, modernization, repair or assembly of goods imported under the temporary import regime. As a second-tier bank, the BICE offers this credit line to the ''Participating Agents'' (the first-tier banks) which the BICE considers eligible to participate. BICE determines the interest rate that it will charge to the Participating Agent. The interest rate ultimately charged to the borrower will be determined by the participating agent. Financing is available for up to 90 percent of the FOB value of either the exported goods, or the value of goods imported under the temporary import regime. Generally this line of credit is limited to projects that require a minimum investment of $20,000 and a maximum of $5 million. However, the BICE may consider financing requests for amounts outside of this.

The GOA reported that the BICE did not grant any loans through this line of credit to honey producers or exporters that were outstanding during the POI. Therefore, we preliminarily determine that this program is not used.

2. BNA Line of Credit to the Agricultural Producers of the Patagonia (Regulation Annex to Circular BNA No. 10,111/1)

According to the questionnaire responses, the GOA established the BNA Line of Credit to the Agricultural Producers of the Patagonia to provide assistance to agricultural producers in the Patagonian region of Argentina. In our notice of initiation, we identified this program as Law 24,467 Preferential Line of Credit to Increase Agricultural and Agro-Industrial Production in the Southern Argentine Provinces. As reported in the questionnaire response, the BNA Line of Credit to the Agricultural Producers of the Patagonia was established pursuant to Regulation Annex to Circular BNA No. 10,111/1. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

The BNA offers a line of credit to the agricultural producers in the Patagonian region (the provinces of Rio Negro, Neuquen, Chubut, Santa Cruz, Tierra del Fuego, Antarctica, and the islands of the South Atlantic) to promote and finance investments oriented to diversifying production activities in eligible provinces. This line of credit is limited to those producers who had previously obtained loans pursuant to the credit line ''Supervised Loans for the Agricultural and Agro-Industrial Production'' that was implemented by the Board of Directors of the BNA in May 1992. These producers are eligible to benefit from the new BNA line of credit as long as they have not refinanced their prior loans, and have fulfilled their investment plans and obligations pursuant to their prior loan agreements. According to the questionnaire responses, honey producers and exporters are not among those eligible to receive this financing. As a result, we preliminarily determine this program to be not used during the POI.

3. ''Production Pole'' Program for Honey Producers

According to the questionnaire responses, the GOA established the ''Production Poles'' program to provide assistance to small businesses pursuant to Decree 1304/94. The Production Poles program was created in order to integrate different producers and manufacturers of each of the production sectors in the Argentine provinces. The program attempts to stimulate business initiatives with the ultimate purpose of enhancing the quality of the regional producers and increasing their products' marketability. Businesses interested in participating in a production pole enter into an agreement with the National and Provincial Government and the respective municipality. The administering authority provides technical advice, grants for capital goods and working capital.

According to the GOA, there is one production pole that benefitted the honey sector and it was established prior to the enactment of Decree 1304/94. However, pursuant to section 5 of Decree 1304/94, certain groups that had entered into agreements similar to those under the Production Pole program are eligible for benefits under Decree 1304/94. A preexisting honey production pole in the municipality of Castelli, Chaco Province (Castelli Honey Production Pole), is one of the groups that qualified under section 5 of Decree 1304/94.

The GOA has stated that the Castelli Honey Production Pole only received grants under this program during 1994. These were grants for working capital and grants for the acquisition of capital equipment. Such grants are treated as non-recurring and are allocated over time, provided they do not meet the exception outlined in § 351.524(b)(2) of the regulations, i.e., the grant amount is not greater than 0.5 percent of total sales in the year of receipt. Because this program is federally-administered, the appropriate denominator for conducting the 0.5 percent test is the value of Argentine production (as a proxy for sales) in the year the grants were approved. Since we do not have that information on the record, we used as

our denominator the value of Argentine honey production during 1999. The grants under the ''Production Poles'' program are significantly less than 0.5 percent and therefore would be expensed in the year of receipt, 1994. Therefore, we preliminarily determine that the Production Pole for Honey program was not used by producers or exporters of honey to the United States during the POI.

4. Enterprise Restructuring Program (PRE)

According to the questionnaire responses, the GOA established the Enterprise Restructuring Program (PRE) to provide assistance to small and medium-sized businesses. In our notice of initiation, we identified this program as Law 24,467 Enterprise Restructuring Program (PRE). As reported in the questionnaire response, the Enterprise Restructuring Program was established by the GOA with IDB funds. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

The Secretary for Small and Medium-Sized Enterprises administers the PRE which was established in 1997 by the Government of Argentina. The purpose of the program is to assist small and medium-sized businesses in increasing administrative and technical capacity with the aim of increasing competitiveness. Companies receive direct support, information gathering (through a business information system (BIS) made available nationwide), and business re-orientation support. The PRE program also makes management consultants available to small and medium-sized businesses.

The PRE is available to any Argentine small and medium-sized enterprise that meets PRE qualifications, possesses a tax identification number, and whose imported products do not represent more than 25 percent of its sales. Grants, or non-disbursed contributions, under this program are not limited to any sector or any geographic region. Although funding is still provided by the IDB, the PRE relies upon contributions from the national budgetary process and the private sector to cover its overhead costs. The size of PRE grants vary based upon need as assessed by each consultant.

According to the GOA, the honey sector has preliminarily been approved for 12 projects under the PRE. A listing of all approved grants has been provided by the GOA. Only one honey project has received a grant from the PRE, and the GOA reported that no disbursements were made before March 2000. Because no disbursements were made under the PRE program until after the POI, we preliminarily determine that this program was not used by honey producers or exporters during the POI.

5. Government Backed Loan Guarantees (SGR)

Under Law 24,467, the GOA established the Reciprocal Guarantee Company (SGR). The SGR is essentially a new type of legal entity under Argentine corporate law which can be formed for the specific purpose of reducing the credit risks confronting small and medium-sized businesses. While several GOA agencies have regulatory authority over the SGRs, none of them has direct administrative authority over them. The SGRs are private companies consisting of small and medium-sized enterprises and large companies and banks that join together for the purpose of minimizing the credit risks facing the small and medium-sized companies who are part of the SGR. The purpose of the SGR is to issue certificates of guarantee to the small and medium-sized business members of the SGR so that those companies have greater access to sources of financing. There have been only five SGRs organized under Law 24,467, none of which involve honey producers or exporters. Accordingly, we preliminarily determine that this program was not used during the POI.

B. Provincial Government Programs

1. Province of Chubut Honey Program under Law No. 4430/98

Law No. 4430/98 was promulgated in 1998 to provide support to the provincial honey industry, instructing executive government agencies to implement programs to develop honey production, standardization, processing, industrialization, marketing, use of products and byproducts, and to support and encourage research, experimentation and training geared toward the development and use of apiarian byproducts. According to the questionnaire responses, Law No. 4430/98 has not yet been wholly implemented. The only portion of Law No. 4430/98 which has been implemented is Article 5.9, which authorizes measures necessary for the opening of lines of credit in official government and private regional banks, with promotional interest rates and loan structures in alignment with the goals of commercial and industrial honey production. Article 5.9 was implemented in 1999 via Decree 491. On March 24, 1999, and in accordance with the stated purposes of Law No. 4430/98, CORFO, the agency responsible for implementation of agricultural policy in Chubut, implemented Resolution 057/99, creating the Honey Activity Development Program to provide the credit lines approved under Decree 491. This program provides lines of credit for the acquisition of beehives, nuclei, work clothing, beekeeping material and equipment, and the purchasing of queen bees. Under this program, interest-free loans are provided for five-year terms, with repayments due annually and consecutively. The maximum loan amount authorized is 2,000 pesos.

According to the questionnaire responses, the first repayments of principal on loans issued under this program were not due until June 2000. In accordance with § 351.505(b), benefits resulting from countervailable loans are considered to have been received in the year in which the firm otherwise would have had to make a payment on the comparable commercial loan. Since the repayment terms on long-term commercial loans would not likely differ significantly from repayment terms on these loans, and since the first payments occurred in June 2000, after the POI, we preliminarily determine that no benefits were received from these loans during the POI.

2. Province of Santiago del Estero: Creditos de Confianza (Trust Credits)

In 1997, the Government of Santiago del Estero authorized the Trust Credits program. The program was administered by the Government of Santiago del Estero through the private sector entity Grupo Taxco S.A. The line of credit provided under this program is designed for low-income honey producers. A producer's beehives and profits earned from honey production comprise the collateral for the loans.

According to the GOA, none of the honey produced in Santiago del Estero was exported to the United States during the POI. Therefore, we preliminarily determine that this program did not benefit honey exports for the United States during the POI.

IV. Programs Preliminarily Determined to be Terminated

A. Federal Programs

1. PROMEX Consortium for Honey Exportation

The GOA's PROMEX export promotion program was created in 1990 through joint funding from the World Bank and the IDB. PROMEX provided export promotion assistance to small and medium-sized businesses.

According to the GOA, PROMEX was terminated in 1998, and the last grant provided under this program was distributed on September 15, 1997.

Export promotion assistance is normally treated as a recurring benefit. Since the last grant under this program was distributed in 1997, there are no residual benefits after the date of the grant distribution. Therefore, the termination of this program constitutes a program-wide change in accordance with § 351.526. We note that the GOA submitted a green box claim for this program, but since we have determined that it has been terminated, we do not address this issue.

2. Regional Promotional Scheme-Reimbursement ''Patagonico'': Exemption of Import Duties on Capital Goods

The GOA administered a regional promotion regime for provinces in the Patagonian region, including Rio Negro, Neuquen, Chubut, Santa Cruz, the National Territory of Tierra del Fuego, the Antarctic, the Falkland Islands, and part of the Patagonian region located in the Province of Buenos Aires. The program, implemented via Decree 2332/83, provided exemptions or deductions from import duties on capital goods utilized in certain industrial activities. The program was terminated as of December 31, 1983.

Even assuming that benefits provided under this program were non-recurring and should be allocated over the honey industry's 10-year AUL, there would be no benefits from this program allocable to the POI. Therefore, we determine that this program has been terminated in accordance with section 351.526 of the regulations.

V. Programs Preliminarily Determined Not to Exist

A. Federal Program

Honey-Specific Line-of-Credit Program for the Pre-Financing of Development Expenses Associated with Export Sales

The Honey-Specific Line-of-Credit Program for the Pre-Financing of Development Expenses Associated with Export Sales is, according to the questionnaire responses, the same as one of the lines of credit available under the Buenos Aires Honey Program. See the discussion of the section on ''Buenos Aires Honey Program'' above.

B. Provincial Government Programs

1. La Pampa Lines of Credit

In our notice of initiation, we identified a program as La Pampa Lines of Credit. According to the questionnaire responses, the La Pampa Lines of Credit are the same lines of credit offered under the Federal Investment Board's (CFI's) ''Credit for Small Business Ventures'' program, discussed above.

2. Province of San Luis: Creditos de Confianza (Trust Credits)

According to the questionnaire responses, the Province of San Luis: Creditos de Confianza (Trust Credits) does not exist.

VI. Program For Which Additional Information Is Needed

Federal Program

BICE Norm 007: Line of Credit Offered to Finance Industrial Investment Projects, and Projects to Restructure and/or Modernize the Argentine Industry

According to the questionnaire responses, the GOA established the BICE Norm 007 program to provide assistance to small businesses. In our notice of initiation, we identified this program as Law 24,467 Investment-Expenditure Credits for Exports. As reported in the questionnaire response, the BICE Norm 007 program was established by the BICE. (*See* discussion of alleged Law 24,467 programs under the ''BNA Pre-Financing of Exports Regime for the Agricultural Sector'' above).

As noted above, BICE is a GOA entity which functions as a ''second-tier'' bank, lending money to other banks (both commercial and other government-owned or controlled banks) for the purpose of implementing government lending programs. The commercial banks then offer the credit to the borrower with substantially the same terms and conditions set forth in the regulations of the particular BICE line of credit, plus an additional spread for their services. These first-tier banks, or intervening financial entities (IFEs), are authorized by the Central Bank of Argentina as eligible to participate in BICE programs. For each loan application, the IFE will analyze the technical, economic and financial feasibility of the transactions and make the decision whether to assume the credit risk and make the loan to the ultimate borrower. If the IFE decides to extend the loan, the IFE presents the application to the BICE with all supporting documentation, and BICE will decide whether the transaction is eligible.

Through Norm 007, the BICE offers a line of credit to finance industrial investment projects, directed to both the production sector and the services sector. Under this line of credit, financing is available for up to 90 percent of the total value of the eligible projects. A list of eligible projects is provided in section 2 of the BICE Norm 007; these projects include investment projects in the agricultural sector, involving the incorporation of machinery, equipment, and investment goods, and associated working capital. Generally, credit under this program is limited to projects that require a minimum investment of US $100,000, and a maximum investment of US $10 million. The financing is granted for a period of no more than 10 years, including a two-year grace period for the repayment of the principal, and interest rates are determined on a case-by-case basis.

In our notice of initiation, we identified this program as one providing export financing based on petitioner's allegation and the supporting documentation, which indicated that this financing was being provided to improve export capacity. The GOA has indicated that one of the first-tier banks which received funding through Norm 007, the BNA, used the funding to establish an export-related financing facility, as documented in the petition. The GOA has also indicated that BNA terminated this facility in 1997, and further, that no honey producers received such financing when the program was active.

However, the information related to the BNA export financing facility highlights the necessity of examining whether other first-tier banks have similarly established export financing facilities with Norm 007 funds. For purposes of this preliminary determination, we are not making a finding with respect to this program. We will seek additional information from the GOA prior to our verification and final determination.

Verification

In accordance with section 782(i)(1) of the Act, we will verify the information submitted by respondents prior to making our final determination.

Suspension of Liquidation

In accordance with sections 703(d)(1)(A)(ii) and 777A(e)(2)(B) of the Act, we calculated a single, country-wide rate for Argentina, applicable to all exporters and producers. The total estimated countervailable subsidy rate is 5.23 percent *ad valorem*. Because of a program-wide change, discussed above in the *Reintegro* section, we have calculated a cash deposit rate of estimated countervailing duties of 6.55 percent *ad valorem*.

In accordance with section 703(d)(1)(A)(ii) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of honey from Argentina, which are entered or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amount listed above. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

Public Comment

In accordance with 19 CFR 351.310, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination. The hearing is tentatively scheduled to be held 57 days from the date of publication of the preliminary determination at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and, (3) to the extent practicable, an identification of the arguments to be raised at the hearing. In addition, unless otherwise informed by the Department, six copies of the business proprietary version and six copies of the non-proprietary version of the case briefs must be submitted to the Assistant Secretary no later than 50 days from the date of publication of the preliminary determination. As part of the case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Six copies of the business proprietary version and six copies of the non-proprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than 5 days from the date of filing of the case briefs. An interested party may make an affirmative presentation only on arguments included in that party's case or rebuttal briefs. Written arguments should be submitted in accordance with 19 CFR 351.309 and will be considered if received within the time limits specified above.

This determination is published pursuant to sections 703(f) and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: March 5, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–6223 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–805]

Revocation of Antidumping Duty Order on Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of revocation of antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide from the Netherlands

SUMMARY: Pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the United States International Trade Commission (''the Commission'') determined that revocation of the antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide (''Aramid Fiber'') from the Netherlands is not likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time, 66 FR 12810 (February 28, 2001). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), the Department of Commerce (''the Department'') is revoking the antidumping duty order on aramid fiber from the Netherlands. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii) the effective date of revocation is January 1, 2000.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

EFFECTIVE DATE: January 1, 2000.

Background

On December 1, 1999, the Department initiated (64 FR 67247), and the Commission instituted (64 FR 67302), a sunset review of the antidumping duty order on aramid fiber from the Netherlands, pursuant to section 751(c) of the Act. As a result of its review, the Department found that revocation of the antidumping duty order on aramid fiber from the Netherlands would likely lead to continuation or recurrence of dumping, and notified the Commission of the magnitude of the margin likely to prevail were the antidumping duty order revoked. See Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands, 65 FR 65294 (November 1, 2000).

On February 28, 2001, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on aramid fiber from the Netherlands would not likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands, 66 FR 12810 (February 28, 2001), and USITC Publication 3394, (February 2001), Investigation No. 731–TA–652 (Review).

Scope

The merchandise subject to this antidumping duty order includes all forms of aramid fiber from the Netherlands. These consist of aramid fiber 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 subject to this order. 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.

Determination

As a result of the determination by the Commission that revocation of this antidumping duty order is not likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1), is revoking the antidumping duty order on aramid fiber from the Netherlands. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(ii), this revocation is effective January 1, 2000. The Department will instruct the Customs Service to discontinue the suspension of liquidation and collection of cash deposit rates on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: March 7, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary Import Administration.

[FR Doc. 01–6226 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–805]

Certain Pasta From Turkey: Final Results of New Shipper Antidumping Duty Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of new shipper antidumping review: certain pasta from Turkey.

SUMMARY: We determine that sales of the subject merchandise have not been made below normal value (''NV'').

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Cindy Lai Robinson, AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3965 or (202) 482–3797, respectively.

SUPPLEMENTARY INFORMATION:

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 refer to the regulations codified at 19 CFR part 351 (2000).

Case History

On December 13, 2000, the Department of Commerce (''the Department'') published the preliminary results of its new shipper administrative review of the antidumping duty order on certain pasta from Turkey. *See* Notice of Preliminary Results of New Shipper Antidumping Duty Administrative Review: Certain Pasta from Turkey, 65 FR 77855 (''*Preliminary Results*''). As discussed in the preliminary results, this review covers shipments by Beslen Makarna Gida Sanayi ve Ticaret A.S., and Beslen Pazarlarma Gida Sanayi ve Ticaret A.S., respectively (collectively ''Beslen''), during the period of review (''POR'') July 1, 1999 through December 31, 1999. Interested parties did not submit case briefs nor did they request a hearing. There have been no changes since the preliminary results.

Scope of the Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (or 2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 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 is dispositive.

Scope Rulings

The Department has issued the following scope ruling to date:

On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances is within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See* ''Memorandum from John Brinkmann to Richard Moreland,'' dated May 24, 1999, in the case file in the Central Records Unit (''the CRU''), main Commerce building, room B–099.

Price Comparisons

We calculated export price and NV based on the same methodology described in the *Preliminary Results.*

Analysis of Comments Received

We gave interested parties an opportunity to comment on the *Preliminary Results.* As noted above, we received no comments from any party.

Final Results of Review

As a result of our review, we determine that Beslen had a zero weighted-average margin for the period July 1, 1999 through December 31, 1999.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. For assessment purposes, we calculated importer-specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. Where appropriate, in order to calculate the entered value, we subtracted international movement expenses (*e.g.*, international freight) from the gross sales value. Where the importer-specific assessment rate is above de minimis we will instruct Customs to assess antidumping duties

on that importer's entries of subject merchandise.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this new shipper review for all shipments of certain pasta from Turkey 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 Beslen will be zero; (2) for previously reviewed or investigated companies, 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 51.49 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: Certain Pasta from Turkey*, 61 FR 38546 (July 24, 1996).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a 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 notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 USC 1675(a)(1) and 19 USC 1677f(i)(1)).

Dated: March 6, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

[FR Doc. 01–6225 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Notice of Initiation and Preliminary Results of Changed Circumstances Review of the Antidumping Order, and Intent To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty review, and intent to revoke order in part.

SUMMARY: In accordance with 19 CFR 351.216(b), Dana Glacier Daido America, LLC (''Dana'') filed a request for a changed circumstances review of the antidumping order on certain corrosion-resistant carbon steel flat products from Japan with respect to the carbon steel flat products as described below. Domestic producers of the like product have expressed no interest in continuation of the order with respect to these particular carbon steel flat products. In response to Dana's request, the Department of Commerce (''the Department'') is initiating a changed circumstances review with respect to this request and issuing a notice of intent to revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3207, (202) 482–3818, respectively.

The Applicable Statute and Regulations: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (''the Act''), by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

On January 23, 2001, Dana requested that the Department revoke in part the antidumping duty order on certain corrosion-resistant carbon steel flat products from Japan. Specifically, Dana requested that the Department revoke the order with respect to imports meeting the following specifications: carbon steel coil or strip, measuring 1.93 millimeters or 2.75 millimeters (0.076 inches or 0.108 inches) in thickness, 87.3 millimeters or 99 millimeters (3.437 inches or 3.900 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 0.3% antimony, 2.5% silicon, 1% maximum total other (including iron), and remainder aluminum. Dana also requested that the Department revoke the order with respect to imports meeting the following specifications: carbon steel coil or strip, clad with aluminum, measuring 1.75 millimeters (0.069 inches) in thickness, 89 millimeters or 94 millimeters (3.500 inches or 3.700 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 2.5% silicon, 0.3% antimony, 1% maximum total other (including iron), and remainder aluminum. Dana is an importer of the products in question.

Scope of Review

The products covered by the antidumping duty order include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch

or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTSUS under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this review are corrosion-resistant flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been beveled or rounded at the edges.

Excluded from this review are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating.

Also excluded from this review are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness.

Also excluded from this review are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

Also excluded from this review are certain corrosion-resistant carbon steel flat products meeting the following specifications: (1) Widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate.

Also excluded from this review are carbon steel flat products measuring 1.84 millimeters in thickness and 43.6 millimeters or 16.1 millimeters in width consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that is balance aluminum, 20% tin, 1% copper, 0.3% silicon, 0.15% nickel, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Also excluded from this review are carbon steel flat products measuring 0.97 millimeters in thickness and 20 millimeters in width consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that is balance copper, 9% to 11% tin, 9% to 11% lead, less than 1% zinc, less than 1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45% to 55% lead, 38% to 50% PTFE, 3% to 5% molybdenum disulfide and less than 2% other materials.

Also excluded from this review are doctor blades meeting the following specifications: Carbon steel coil or strip, plated with nickel phosphorous, having a thickness of 0.1524 millimeters (0.006 inches), a width between 31.75 millimeters (1.25 inches) and 50.80 millimeters (2.00 inches), a core hardness between 580 to 630 HV, a surface hardness between 900–990 HV; the carbon steel coil or strip consists of the following elements identified in percentage by weight: 0.90% to 1.05% carbon; 0.15% to 0.35% silicon; 0.30% to 0.50% manganese; less than or equal to 0.03% of phosphorous; less than or equal to 0.006% of sulfur; other elements representing 0.24%; and the remainder of iron.

Also excluded from this review are products meeting the following specifications: carbon steel flat products measuring 1.64 millimeters in thickness and 19.5 millimeters in width consisting of carbon steel coil (SAE 1008) with a lining clad with an aluminum alloy that is balance aluminum; 10 to 15% tin; 1 to 3% lead; 0.7 to 1.3% copper; 1.8 to 3.5% silicon; 0.1 to 0.7% chromium, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Also, excluded from this review are products meeting the following specifications: carbon steel coil or strip, measuring 1.93 millimeters or 2.75 millimeters (0.076 inches or 0.108 inches) in thickness, 87.3 millimeters or 99 millimeters (3.437 inches or 3.900 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 0.3% antimony, 2.5% silicon, 1% maximum total other (including iron), and remainder aluminum.

Also excluded from this review are products meeting the following specifications: carbon steel coil or strip, clad with aluminum, measuring 1.75 millimeters (0.069 inches) in thickness, 89 millimeters or 94 millimeters (3.500 inches or 3.700 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 2.5% silicon, 0.3% antimony, 1% maximum total other (including iron), and remainder aluminum.

Initiation of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

Pursuant to sections 751(d)(1) and 782(h)(2) of the Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review) where the Department determines that producers accounting for substantially all of the production of that domestic like product have expressed a lack of interest in issuance of an order. Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances administrative review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it determines that producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or if other changed circumstances sufficient to

warrant revocation exist. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

In accordance with sections 751(d)(1) and 782(h)(2) of the Act, and 19 CFR 351.216 and 351.222(g), based on affirmative statements by domestic producers of the like product, Bethlehem Steel Corporation; LTV Steel Company, Inc.; National Steel Corporation; and U.S. Steel Group, a unit of USX Corporation (''domestic producers''), no further interest exists in continuing the order with respect to certain corrosion-resistant carbon steel flat products meeting the following specifications: (1) Carbon steel coil or strip, measuring 1.93 millimeters or 2.75 millimeters (0.076 inches or 0.108 inches) in thickness, 87.3 millimeters or 99 millimeters (3.437 inches or 3.900 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 0.3% antimony, 2.5% silicon, 1% maximum total other (including iron), and remainder aluminum; and (2) carbon steel coil or strip, clad with aluminum, measuring 1.75 millimeters (0.069 inches) in thickness, 89 millimeters or 94 millimeters (3.500 inches or 3.700 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 2.5% silicon, 0.3% antimony, 1% maximum other (including iron), and remainder aluminum (*see* domestic producers' January 30, 2001 letter to the Department), we are initiating this changed circumstances administrative review.

Furthermore, because petitioners have expressed a lack of interest, we determine that expedited action is warranted, and we preliminarily determine that continued application of the order with respect to certain corrosion-resistant carbon steel flat products falling within the descriptions above is no longer of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke in part the antidumping duty order with respect to imports of certain corrosion-resistant carbon steel flat products meeting the above-mentioned specifications from Japan.

If the final revocation in part occurs, we intend to instruct the U.S. Customs Service (''Customs'') to liquidate without regard to antidumping duties, as applicable, and to refund any estimated antidumping duties collected for all unliquidated entries of certain corrosion-resistant carbon steel flat products meeting the specifications indicated above, not subject to final results of administrative review as of the date of publication in the **Federal Register** of the final results of this changed circumstances review in accordance with 19 CFR 351.222. We will also instruct Customs to pay interest on such refunds in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties on certain corrosion-resistant carbon steel flat products meeting the above specifications will continue unless and until we publish a final determination to revoke in part.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties to the proceedings may request a hearing within 14 days of publication. Any hearing, if requested, will be held no later than two days after the deadline for the submission of rebuttal briefs, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than five days after the deadline for submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing.

The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This notice is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.222. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of Assistant Secretary for Import Administration.

Dated: March 6, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–6228 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Continuation of Antidumping Duty Order on Fresh Garlic From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of continuation of antidumping duty order on fresh garlic from the People's Republic of China.

SUMMARY: On July 5, 2000, the Department of Commerce (''the Department''), pursuant to sections 751(c) and 752 of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the antidumping duty order on fresh garlic from the People's Republic of China (''PRC'') would be likely to lead to continuation or recurrence of dumping. *See Fresh Garlic From the People's Republic of China; Final Results of Expedited Sunset Review of Antidumping Duty Order* (65 FR 41432).

On February 28, 2001, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the antidumping duty order on fresh garlic from the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Fresh Garlic from China,* 66 FR 12810 (February 28, 2001). Therefore, pursuant to 19 CFR 351.218(f)(4), the Department is publishing this notice of continuation of the antidumping duty order on fresh garlic from the PRC.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or James P. Maeder, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 1, 1999, the Department initiated (64 FR 67247), and the Commission instituted (64 FR 67315), a sunset review of the antidumping duty order on fresh garlic from the PRC pursuant to section 751(c) of the Act. As a result of its review, the Department found on July 5, 2000, that revocation of the antidumping duty order on fresh garlic from the PRC (65 FR 41432) would likely lead to continuation or recurrence of dumping and notified the Commission of the magnitude of the margin likely to prevail were the order revoked.

On February 28, 2001, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on fresh garlic from the PRC would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. See 66 FR 12810 (February 28, 2001) and USITC Publication 3393 (February 2001) Investigation Nos. 731–TA–683 (Review).

Scope of the Order

The product subject to this antidumping duty order is all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing, and level of decay. The scope of this order does not include the following: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed. The subject garlic is currently classifiable under subheadings 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9700 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive. In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the Customs Service to that effect.

Determination

As a result of the determinations by the Department and the Commission that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping and material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty order on fresh garlic from China. The effective date of continuation of this order will be the date of publication in the **Federal Register** of this Notice of Continuation. Pursuant to section 751(c)(2) and 751(c)(6) of the Act, the Department intends to initiate the next five-year review of this order not later than February 2006.

Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: March 7, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–6227 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–504]

Petroleum Wax Candles From the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review of petroleum wax candles from the People's Republic of China.

SUMMARY: On September 7, 2000, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC) (65 FR 54224) (Preliminary Results). This review covers 21 respondents. The period of review is August 1, 1998 through July 31, 1999. Based on our analysis of the comments received, we have made no changes to the Preliminary Results and therefore continue to find that all 21 respondents should be assigned a dumping margin based upon the facts otherwise available. The final dumping margin for the reviewed firms is listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Matthew Renkey at (202) 482–2312 or Abdelali Elouaradia at (202) 482–1374, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

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 19 CFR part 351 (2000).

Background

On September 7, 2000, the Department published the Preliminary Results of the administrative review of the antidumping duty order on petroleum wax candles from the PRC. (65 FR 54224). We invited parties to comment on the Preliminary Results of the review. On October 12, 2000, the respondent Universal Candle Company, Ltd. (Universal) filed its case brief. On October 13, 2000, the petitioner, National Candle Association, and respondents Liaoning Native Product Import and Export Corporation and Tianjin Native Produce Imp. & Exp. Group Corp., Ltd. (Liaoning and Tianjin, respectively) filed their case briefs. On October 20, 2000, the petitioner and Universal filed rebuttal briefs. On November 1, 2000, a public hearing was held with respect to this review. The Department has conducted this administrative review in accordance with section 751 of the Act.

Scope of the Antidumping Duty Order

Merchandise covered by this review includes certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds, columns, pillars, votives; and various wax-filled containers. The products are currently classified under the

Harmonized Tariff Schedule of the United States (HTSUS) item 3406.00.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the order remains dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memo) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Bernard T. Carreau, fulfilling the duties of Assistant Secretary for Import Administration, dated March 6, 2001, which is hereby adopted by this notice.

A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/frnhome.htm.* The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Results

Based on our review of comments received, we have made no changes in the margin for the final results.

Final Results of Review

We determine that the following margin exists for the period August 1, 1998, through July 31, 1999:

Petroleum Wax Candles

Manufacturer/exporter	Margin (percent)
People's Republic of China Country-Wide Rate	54.21

Liquidation

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to Customs.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of petroleum wax candles from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For all PRC exporters, all of which were found not to be entitled to separate rates, the cash-deposit rate will be the PRC country-wide rate, which is 54.21 percent; and (2) for all non-PRC exporters of subject merchandise from the PRC, the cash-deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Reminders

This notice also serves as a final 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 doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: March 6, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix

List of Issues

1. Use of Adverse Facts Available
2. Separate Rates
3. Cost Allocation Methodology/Adequacy of Information
4. Request for Issuance of Additional Supplemental Questionnaires
5. Options for Dumping Margin
6. Inappropriate Dumping Margin

[FR Doc. 01–6230 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–508–809, A–821–813, A–570–864, C–508–810]

Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Pure Magnesium From Israel, the Russian Federation, and the People's Republic of China and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determinations: Pure Magnesium From Israel

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Craig Matney (Israel) or James Nunno (the Russian Federation and the People's Republic of China) at (202) 482–1778 and (202) 482–0783, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

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 of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2000).

Postponement of Preliminary Determinations

On November 6, 2000, the Department initiated antidumping duty investigations of imports of pure magnesium from Israel, the Russian Federation, and the People's Republic of China. The notice of initiation stated that we would make our preliminary determinations for the antidumping duty investigations by March 26, 2001. *See Initiation of Antidumping Duty Investigations: Pure Magnesium From Israel, the Russian Federation, and the People's Republic of China,* 65 FR 68,121, 68,125 (November 14, 2000) (*Initiation Notice*).

On March 1, 2001, the petitioners [1] made a timely request pursuant to 19 CFR 351.205(e) for a 28-day

[1] The petitioners in this case are Magnesium Corporation of America (Magcorp), the United Steel Workers of America, Local 8319, and the United Steelworkers of America, Local 482 (collectively, ''the petitioners'').

postponement of the preliminary determinations, until April 23, 2001, pursuant to section 733(c)(1) of the Act. The petitioners requested postponements for additional time to submit comments regarding the respondents' supplemental questionnaire responses and for the Department to analyze the respondents' data and seek additional data, if necessary, prior to the issuance of the preliminary determinations.

For the reasons identified by the petitioners, and because there are no compelling reasons to deny the request, we are postponing the preliminary determinations under section 733(c)(1) of the Act. We will make our preliminary determinations no later than April 23, 2001.

Alignment With Final Antidumping Duty Determination

On February 27, 2001, the petitioners submitted a letter requesting alignment of the final determination in the countervailing duty investigation of pure magnesium from Israel with the final determinations in the companion antidumping duty investigations. (*See Initiation Notice.*) In accordance with section 705(a)(1) of the Act, we are aligning the final determination in the countervailing duty investigation of pure magnesium from Israel with the final determinations in the antidumping investigations of pure magnesium from China, Israel, and Russia.

This determination is published pursuant to sections 703(f), 733(f), and 777(i) of the Act. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: March 6, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–6121 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–841]

Vector Supercomputers From Japan: Notice of Initiation and Preliminary Results of Changed Circumstances Review of the Antidumping Order and Intent To Revoke Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty review, and intent to revoke order.

SUMMARY: In accordance with 19 CFR 351.216(b), Cray Inc. (''Cray'') filed a request for changed circumstances review of the antidumping order on vector supercomputers from Japan. Domestic producers of the like product have expressed no interest in continuation of the order with respect to these particular vector supercomputers. In response to Cray's request, the Department of Commerce (''the Department'') is initiating a changed circumstances review with respect to the request and issuing a notice of intent to revoke the antidumping duty order on vector supercomputers from Japan. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Mark Young, AD/CVD Enforcement, Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–6397.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations as codified at 19 CFR part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

On February 27, 2001, Cray requested that the Department conduct a changed circumstances review and revoke the antidumping duty order on vector supercomputers from Japan, retroactive to October 1, 2000. In their February 27, 2001 request, Cray claims that it is the only U.S. producer of vector supercomputers and was the sole petitioner in the antidumping investigation that led to the antidumping order. Further, Cray states that it no longer has an interest in maintaining this order.

Scope of Review

The scope of this order consists of all vector supercomputers, whether new or used, and whether in assembled or unassembled form, as well as vector supercomputer spare parts, repair parts, upgrades, and system software, shipped to fulfill the requirements of a contract entered into on or after October 16, 1997, for the sale and, if included, maintenance of a vector supercomputer. A vector supercomputer is any computer with a vector hardware unit as an integral part of its central processing unit boards.

In general, the vector supercomputers imported from Japan, whether assembled or unassembled, covered by this order are classifiable under heading 8471 of the Harmonized Tariff Schedules of the United States (''HTS''). Merchandise properly classified under HTS numbers 8471.10 and 8471.30, however, is excluded from the scope of this order. Although, these references to the HTS are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Initiation of Changed Circumstances Antidumping Duty Administrative Review and Intent To Revoke Order

Pursuant to sections 751(d)(1) and 782(h)(2) of the Act, the Department may revoke an antidumping or countervailing duty order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances administrative review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it determines that producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the relief provided by the order, in whole or in part, or if other changed circumstances sufficient to warrant revocation exist. In addition, in the event that the Department concludes that expedited action is warranted, 19 CFR 351.221(c)(3)(ii) permits the Department to combine the notices of initiation and preliminary results.

Cray is a domestic interested party as defined by section 771(9)(C) of the Act and 19 CFR 351.102(b). Cray indicated that it is the only U.S. producer of the domestic like product to which this order pertains. Therefore, based on the lack of interest by the domestic industry in the continued application of the antidumping duty order on vector supercomputers from Japan, we are initiating this changed-circumstances review. Further, based on the affirmative statement of no interest by Cray, we have determined that

expedited action is warranted, and we are combining the notices of initiation and preliminary results.

We have preliminarily determined that the petitioner's statement of no interest in the continuation of the order constitutes changed circumstances sufficient to warrant revocation of the entire order. We are hereby notifying the public of our intent to revoke in whole the antidumping duty order on vector supercomputers from Japan, retroactive to October 1, 2000.

If final revocation of the order occurs, we intend to instruct the Customs Service to discontinue the suspension of liquidation and to refund any estimated antidumping duties collected for all unliquidated entries of vector supercomputers from Japan entered, or withdrawn from warehouse, for consumption on or after October 1, 2000. We will also instruct the Customs Service to pay interest on any refunds with respect to the subject merchandise entered, or withdrawn from warehouse, for consumption on or after, October 1, 2000, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed-circumstances review.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties to the proceeding may request a hearing within 14 days of publication. Any hearing, if requested, will be held no later than two days after the deadline for the submission of rebuttal briefs, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than five days after the deadline for submission of case briefs. All written comments shall be submitted in accordance with 19 CFR 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 CFR 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This notice is published in accordance with section 751(b)(1) of the Act and 19 CFR 351.216 and 351.222. Effective January 20, 2001, Bernard T. Carreau is fulfilling the duties of the Assistant Secretary for Import Administration.

Dated: March 6, 2001.

Bernard T. Carreau,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 01–6224 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Harvard University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 00–043. *Applicant:* Harvard University, Cambridge, MA 02138. *Instrument:* Picking and Gridding QBot with Accessories. Manufacturer: Genetix Ltd., United Kingdom. *Intended Use:* See notice at 66 FR 7626, January 24, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) A 96 pin pneumatic picking head with a picking rate of 4000 picks per hour and (2) various picking head configurations to accommodate different containers and micro array plates. The National Institutes of Health advises in its memorandum of January 11, 2001 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–6120 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Massachusetts Institute of Technology; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 00–041. *Applicant:* Massachusetts Institute of Technology, Cambridge, MA 02139. *Instrument:* Nanoindentor. Manufacturer: Micro Materials, Ltd., United Kingdom. *Intended Use:* See notice at 66 FR 7626, January 24, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides a high temperature stage for heating specimens to 500° C with: (1) a probe heater to ensure equilibrium of the indentor/specimen temperature and (2) a thermal barrier to minimize heating of the remainder of the instrument. A domestic manufacturer of similar equipment advised February 15, 2001 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald Z. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–6119 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

The University of Chicago; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 00–040. *Applicant:* The University of Chicago, Operator of Argonne National Laboratory, Argonne, IL 60439. *Instrument:* UHV Scanning Tunneling Microscope/Atomic Force Microscope. *Manufacturer:* Omicron Vakuumphysik GmbH, Germany. *Intended Use:* See notice at 66 FR 7626, January 24, 2001.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) Integral vibration isolation with spring suspension and 360° magnetic eddy current damping on the head, (2) continuous imaging in a range of 25–1500° K, (3) scan range of $12 \times 12 \times 1.2$ μm^3 and (4) needle sensor AFM with electrical sensing. A university research laboratory and the National Institute of Standards and Technology advised February 4, 2001 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use (comparable case).

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01–6118 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–201–810]

Certain Cut-to-Length Carbon Steel Plate From Mexico: Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On September 7, 2000, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on certain cut-to-length carbon steel plate (CTL Plate) from Mexico for the period January 1, 1998, through December 31, 1998.

Based on our analysis of the comments received, we have made changes to the net subsidy rate. Therefore, the final results differ from the preliminary results. The final net subsidy rate for the reviewed company is listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Eric B. Greynolds at (202) 482–6071 or Michael Grossman at (202) 482–3146, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

On September 7, 2000, the Department published the preliminary results of the administrative review of the countervailing duty order on certain cut-to-length carbon steel plate from Mexico. *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Preliminary Results of Countervailing Duty Administrative Review*, 65 FR 54232, (September 7, 2000) (Preliminary Results). This review covers one manufacturer/exporter, Altos Hornos de Mexico, S.A. (AHMSA). The review covers the period January 1, 1998, through December 31, 1998, and 17 programs.

Scope of the Review

The products covered by this administrative review are certain cut-to-length carbon steel plates. These products include hot-rolled carbon steel universal mill plates (*i.e.*, flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot-rolled carbon steel flat-rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedules of the United States (HTSUS) under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included in this administrative review are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')—for example, products which have been bevelled or rounded at the edges. Excluded from this administrative review is grade X–70 plate. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) dated March 6,

2001, which is hereby adopted by this notice. A list of issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at http://www.ia.ita.doc.gov, under the heading ''**Federal Register** Notices.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made certain changes to the net subsidy rate. Any changes are discussed in the relevant sections of the Decision Memorandum.

Final Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each producer/exporter subject to this review. We will instruct the U.S. Customs Service (Customs) to assess countervailing duties as indicated below on all appropriate entries. For the period January 1, 1998, through December 31, 1998, we determine the net subsidy rate for the reviewed company to be as follows:

Manufacturer/Exporter	Net subsidy rate (percent)
AHMSA	11.68

We will instruct Customs to assess countervailing duties as indicated above. The Department will also instruct Customs to collect cash deposits of estimated countervailing duties in the percentages detailed above of the f.o.b. invoice price on all shipments of the subject merchandise from reviewed companies, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR 351.23(b). Pursuant to 19 CFR 351.212(c), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. *See Federal-Mogul Corporation and the Torrington Company* v. *United States*, 822 F. Supp. 782 (CIT 1993); *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (CIT 1993). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order will be the rate for that company established in the most recently completed administrative proceeding conducted under the Act, as amended by the URAA. If such a review has not been conducted, the rate established in the most recently completed administrative proceeding pursuant to the statutory provisions that were in effect prior to the URAA amendments is applicable. See *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Mexico*, 58 FR 37352 (July 9, 1993). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1998, through December 31, 1998, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 USC 1675(a)(1)).

Dated: March 6, 2001.

Timothy J. Hauser,

Acting Under Secretary for International Trade.

Appendix I—Issues Discussed in Decision Memorandum

http://www.ia.ita.doc.gov, under the heading (''**Federal Register** Notices'').

Methodology and Background Information

I. Subsidies Valuation Information
- A. Allocation Period
- B. Creditworthiness and Calculation of Discount Rate

II. Change-in-Ownership
- A. Background on Methodology
- B. Preliminary Analysis of AHMSA's Change-In-Ownership
- C. Application of Methodology

III. Inflation Methodology

Analysis of Programs

I. Programs Conferring Subsidies
- A. Government of Mexico (GOM) Equity Infusions
- B. 1986 Assumption of AHMSA's Debt
- C. 1988 and 1990 Debt Restructuring of AHMSA Debt and the Resulting Discounted Prepayment in 1996 of AHMSA's Restructured Debt Owed to the GOM
- D. Grants from the Mexican Institute for Steel Research (*i.e.*, IMIS)
- E. Lay-off Financing from the GOM Bestowed in 1994
- F. Bancomext Export Loans
- G. PITEX Duty-Free Imports for Companies That Export
- H. Committed Investment
- I. Immediate Deduction

II. Programs Determined To Be Not Countervailable
- A. Alleged Assumption of AHMSA's Debt

III. Programs Determined To Be Not Used
- A. Bancomext Short-Term Import Financing
- B. FONEI Long-Term Financing
- C. Export Financing Restructuring
- D. Bancomext Trade Promotion Services and Technical Support
- E. Empresas de Comercio Exterior or Foreign Trade Companies Program
- F. Article 15 & 94 Loans
- G. Nafinsa Long-Term Loans

IV. Total Ad Valorem Rate

V. Analysis of Comments

Comment 1: Grupo Acerero del Norte S.A. de C.V.''s (GAN) Committed Investment Into AHMSA.

Comment 2: Assumption of AHMSA's Debt.

Comment 3: Discount Rates Used in the Allocation of AHMSA's Non-Recurring Grants.

Comment 4: Immediate Deduction.

Comment 5: PITEX.

Comment 6: Pre-Privatization Subsidies.

Comment 7: Preliminary Change In Ownership Analysis.

Comment 8: Short-Term Benchmark Interest Rate.

Comment 9: Discounted Prepayment of Debts, Lay-off Financing from the GOM

Bestowed in 1994, and Bancomext Export Loans.

[FR Doc. 01–6229 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.030501A]

Endangered and Threatened Species; Take of Anadromous Fish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability and request for comment.

SUMMARY: The Washington Department of Fish and Wildlife and the Point-No-Point Treaty Tribes submitted a jointly developed Resource Management Plan (RMP), Summer Chum Salmon Conservation Initiative - An Implementation Plan to Recover Summer Chum Salmon in the Hood Canal and Strait of Juan de Fuca Region, pursuant to the protective regulations promulgated for the Hood Canal Summer-Run chum salmon Evolutionary Significant Unit (ESU) under the Endangered Species Act (ESA). The RMP specifies the future management of commercial, recreational and tribal salmon fisheries potentially affecting listed Hood Canal and Strait of Juan de Fuca summer-run chum salmon. This document serves to notify the public of the availability for comment of the proposed evaluation of the Secretary of Commerce (Secretary) as to how the RMP addresses the criteria in the ESA.

DATES: Written comments on the Secretary's evaluation must be received at the appropriate address or fax number (see ADDRESSES) no later than 5 p.m. Pacific Standard Time on March 30, 2001.

ADDRESSES: Written comments and requests for copies of the proposed evaluation should be addressed to Keith Schultz, Sustainable Fisheries Division, National Marine Fisheries Service, 7600 Sand Point Way NE, Seattle, WA 98115–0070. Comments may also be sent via fax to 206/526–6736. The document is also available on the Internet at *http://www.nwr.noaa.gov/*, Sustainable Fisheries Division site. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Keith Schultz at phone number: 206/526–4447, or e-mail: *keith.schultz@noaa.gov* regarding the RMP.

The Summer Chum Salmon Conservation Initiative - An Implementation Plan to Recover Summer Chum Salmon in the Hood Canal and Strait of Juan de Fuca Region is available on the Internet at the State of Washington, Department of Fish and Wildlife web site *http://www.wa.gov/wdfw/fish/chum/chum.htm*.

SUPPLEMENTARY INFORMATION: This notice is relevant to the Hood Canal summer-run chum salmon (*Oncorhynchus keta*) Evolutionarily Significant Unit (ESU).

Background

The Washington Department of Fish and Wildlife and the Point-No-Point Treaty Tribes have provided a jointly developed RMP for Hood Canal and Strait of Juan de Fuca summer-run chum salmon. The RMP encompasses fisheries within the range of the Hood Canal summer-run chum salmon ESU. Harvest objectives specified in the RMP account for fisheries-related mortality throughout the migratory range of Hood Canal and Strait of Juan de Fuca summer-run chum salmon–from Northern British Columbia, Canada to South Puget Sound. The RMP also includes implementation, monitoring and evaluation procedures designed to ensure fisheries are consistent with these objectives.

As required by § 223.203 (b)(6) of the ESA 4(d) rule, the Secretary must determine pursuant to 50 CFR 223.209 and pursuant to the government to government processes therein whether the RMP for Hood Canal and Strait of Juan de Fuca summer-run chum salmon would appreciably reduce the likelihood of survival and recovery of the Hood Canal summer-run chum salmon and other affected threatened ESUs. The Secretary must take comments on how the RMP addresses the criteria in § 223.203(b)(4) in making that determination.

Authority

Under section 4 of the ESA, the Secretary is required to adopt such regulations as he deems necessary and advisable for the conservation of the species listed as threatened. The ESA salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000) specifies categories of activities that contribute to the conservation of listed salmonids and sets out the criteria for such activities. The rule further provides that the prohibitions of paragraph (a) of the rule do not apply to actions undertaken in compliance with a RMP plan developed jointly by the State of Washington and the Tribes (joint plan) and determined by the Secretary to be in accordance with the salmon and steelhead 4(d) rule (65 FR 42422, July 10, 2000).

Dated: March 7, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–6211 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. 000317075–1035–02]

RIN 0651–XX22

Public Advisory Committees

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice and request for nominations.

SUMMARY: On November 29, 1999, the President signed into law the Patent and Trademark Office Efficiency Act (the ''Act''), Pub. L. 106–113, Appendix I, Title IV, Subtitle G, 113 Stat. 1501A–572, which, among other things, established two Public Advisory Committees to review the policies, goals, performance, budget and user fees of the United States Patent and Trademark Office (USPTO) with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to trademarks, in the case of the Trademark Public Advisory Committee, and to advise the Director in these matters. The USPTO is requesting nominations for three (3) members to each Public Advisory Committee for terms beginning on July 13, 2001.

DATES: Nominations must be postmarked or electronically transmitted on or before April 12, 2001.

ADDRESSES: Persons wishing to submit nominations should send the nominee's resume to Chief of Staff, Office of the Director of the USPTO, Washington, DC 20231; by electronic mail to *PPACnomination@uspto.gov* for the Patent Public Advisory Committee or *TPACnomination@uspto.gov* for the Trademark Public Advisory Committee; by facsimile transmission marked to the Chief of Staff's attention at (703) 305–8664; or by mail marked to the Chief of Staff's attention and addressed to the Office of the Director of the USPTO, Washington, DC 20231.

FOR FURTHER INFORMATION CONTACT: Chief of Staff by facsimile transmission

marked to his attention at (703) 305–8664, or by mail marked to his attention and addressed to the Office of the Director of the USPTO, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Under the Act, the then-Acting Secretary of Commerce appointed members to the two Patent and Trademark Public Advisory Committees on July 13, 2000. The Advisory Committees' duties include:

• Review and advise the Director of the USPTO on matters relating to policies, goals, performance, budget, and user fees of the USPTO relating to patents and trademarks, respectively; and

• Within 60 days after the end of each fiscal year: (1) Prepare an annual report on the matters listed above; (2) transmit the report to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and (3) publish the report in the Official Gazette of the USPTO. Members of the Patent and Trademark Public Advisory Committees are appointed by and serve at the pleasure of the Secretary of Commerce for three (3)-year terms.

Advisory Committees

The Public Advisory Committees are each composed of nine (9) voting members who are appointed by the Secretary of Commerce (the ''Secretary'') and who have ''substantial backgrounds and achievement in finance, management, labor relations, science, technology, and office automation.'' 35 U.S.C. 5(b)(3). The Public Advisory Committee members must be United States citizens and represent the interests of diverse users of the USPTO both large and small entity applicants in proportion to the number of such applications filed. In the case of the Patent Public Advisory Committee, at least twenty-five (25) percent of the members must represent ''small business concerns, independent inventors, and nonprofit organizations,'' and at least one member must represent the independent inventors' community. 35 U.S.C. 5(b)(2). Each of the Public Advisory Committees also includes three (3) non-voting members representing each labor organization recognized by the USPTO.

Procedures and Guidelines of the Patent and Trademark Public Advisory Committees

Each newly appointed member of the Patent and Trademark Public Advisory Committees will serve for a term of three years. Members appointed in the current fiscal year shall serve from July 13, 2001, to July 12, 2004.

As required by the Act, members of the Patent and Trademark Public Advisory Committees will receive compensation for each day, including travel time, while the member is attending meetings or engaged in the business of that Advisory Committee. The rate of compensation is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5, United States Code. While away from home or regular place of business, each member will be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code. The USPTO will provide the necessary administrative support, including technical assistance, for the Committees.

Applicability of Certain Ethics Laws

Members of each Public Advisory Committee shall be special Government employees within the meaning of Section 202 of Title 18, United States Code. The following additional information assumes that members are not engaged in Public Advisory Committee business more than sixty days during each calendar year:

• Each member will be required to file a confidential financial disclosure form within thirty (30) days of appointment. 5 C.F.R. 2634.202(c), 2634.204, 2634.903, and 2634.904(b).

• Each member will be subject to many of the public integrity laws, including criminal bars against representing a party, 18 U.S.C. 203(c), or acting where the United States has an interest, 18 U.S.C. 205(c), in a particular matter that came before the member's committee and that involved at least one specific party. *See also* 18 U.S.C. 207 for post-membership bars. A member also must not act on a matter in which the member (or any of certain closely related entities) has a financial interest. 18 U.S.C. 208.

• Representation of foreign interests may also raise issues. 35 U.S.C. 5(a)(1) and 18 U.S.C. 219.

Meetings of the Patent and Trademark Public Advisory Committees

Meetings of each Advisory Committee will take place at the call of the chair to consider an agenda set by the chair. Meetings may be conducted in person, electronically through the Internet, or by other appropriate means. The meetings of each Advisory Committee will be open to the public except each Advisory Committee may, by majority vote, meet in executive session when considering personnel or other confidential matters. Nominees must also have the ability to participate in Committee business through the Internet.

Procedure for Submitting Nominations

Submit resumes for nominations for the Patent Public Advisory Committee and the Trademark Public Advisory Committee to the USPTO's Chief of Staff as provided above.

Dated: March 7, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01–6238 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–16–U

DEPARTMENT OF COMMERCE

Technology Administration

National Medal of Technology Nomination Evaluation Committee; Notice of Determination for Closure of Meeting

The National Medal of Technology Nomination Evaluation Committee has scheduled a meeting for March 29, 2001.

The Committee was established to assist the Department in executing its responsibilities under 15 U.S.C. 3711. Under this provision, the Secretary is responsible for recommending to the President prospective recipients of the National Medal of Technology. The committee's recommendations are made after reviewing all nominations received in response to a public solicitation. The Committee is chartered to have twelve members.

Time and Place: The meeting will begin at 10:00 a.m. and end at 3:00 p.m. on March 29, 2001. The meeting will be held in Room 1412 at the U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, D.C. 20230. For further information contact: Mildred S. Porter, Director National Medal of Technology, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Herbert C. Hoover Building, Room 4226, Washington, D.C. 20230, Phone: (202) 482–1424.

If a member of the public would like to submit written comments concerning the committee's affairs at any time before and after the meeting, written comments should be addressed to the Director of the National Medal of Technology as indicated above.

SUPPLEMENTARY INFORMATION: The meeting will be closed to discuss the relative merits of persons and companies nominated for the Medal.

Public disclosure of this information would be likely to significantly frustrate implementation of the National Medal of Technology program because premature publicity about candidates under consideration for the Medal, who may or may not ultimately receive the award, would be likely to discourage nominations for the Medal.

Accordingly, I find and determine, pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended, that the March 29, 2001, meeting may be closed to the public in accordance with section 552b(c)(9)(B) of Title 5, United States Code because revealing information about Medal candidates would be likely to significantly frustrate implementation of a proposed agency Action.

Due to closure of the meeting, copies of the minutes of the meeting will not be available, however a copy of the Notice of determination will be available for public inspection and copying in the office of Mildred Porter, Director, National Medal of Technology, 1401 Constitution Avenue, N.W., Herbert Hoover Building, Room 4226, Washington, D.C. 20230, Phone: (202) 482–1424.

Dated: February 28, 2001.

Karen H. Brown,

Acting Under Secretary for Technology.

[FR Doc. 01–6166 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–18–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Belarus

March 6, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 622 is being reduced for carryforward used. The sublimit for Category 622–L remains unchanged.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 69739, published on November 20, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 6, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain man-made fiber textile products, produced or manufactured in Belarus and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on March 13, 2001, you are directed to reduce the limit for the following category, as provided for under the agreement between the Governments of the United States and Belarus dated February 17, 2000:

Category	Adjusted twelve-month limit [1]
622	11,500,000 square meters of which not more than 1,060,000 square meters shall be in Category 622–L [2].

[1] The limit has not been adjusted to account for any imports exported after December 31, 2000.

[2] Category 622–L: only HTS numbers 7019.51.9010, 7019.52.4010, 7019.52.9010, 7019.59.4010, and 7019.59.9010.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–6195 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia

March 6, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: March 14, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 443 is being reduced for carryforward used.

This limit does not apply to goods entered under the Outward Processing Program, as defined in the notice and letter to the Commissioner of Customs published in the **Federal Register** on December 14, 1999 (64 FR 69746).

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also

see 65 FR 66724, published on November 7, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 6, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool textile products, produced or manufactured in the Former Yugoslav Republic of Macedonia and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001.

Effective on March 14, 2001, you are directed to reduce the limit for Category 443 to 173,348 numbers [1], as provided for in the agreement between the Governments of the United States and the Former Yugoslav Republic of Macedonia dated November 7, 1997, as amended and extended by exchange of notes on June 22, 2000 and July 5, 2000.

This limit does not apply to goods entered under the Outward Processing Program, as defined in the letter to the Commissioner of Customs dated December 8, 1999 (64 FR 69746).

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–6197 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Import Limits for Certain Wool Textile Products Produced or Manufactured in the Former Yugoslav Republic of Macedonia; Correction

March 6, 2001.

In the document published in the **Federal Register** on November 7, 2000 (65 FR 66724), please make the following corrections:

Please insert the following paragraph in the notice, 2nd column, immediately following the 1st full paragraph that begins with ''These limits do not apply to goods entered under the Outward Processing Program...'' I11''Any shipment for entry under the Outward Processing Program which is not accompanied by valid certification in accordance with the provisions established in the notice and letter to the Commissioner of Customs, published in the **Federal Register** on December 14, 1999 (see 64 FR 69744), shall be denied entry. However, the Government of Macedonia may authorize the entry and charges to the appropriate specific limits by the issuance of a valid visa. Also see 63 FR 17156, published on April 8, 1998.''

In the letter to the Commissioner of Customs, please insert the following paragraph, 3rd column, immediately following the 3rd paragraph that begins with ''These limits do not apply to goods entered under the Outward Processing Program...''

''Any shipment for entry under the Outward Processing Program which is not accompanied by a valid certification in accordance with the provisions established in the letter to the Commissioner of Customs, dated December 9, 1999 (see 64 FR 69744), shall be denied entry. However, the Government of Macedonia may authorize the entry and charges to the appropriate specific limits by the issuance of a valid visa. Also see directive dated April 2, 1998, (63 FR 17156). Any shipment which is declared for entry under the Outward Processing Program but found not to qualify shall be denied entry into the United States.''

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–6196 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 2000.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Wool Textile Products Produced or Manufactured in Romania

March 6, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for Categories 435 and 443 are being reduced for carryforward used.

These limits do not apply to goods entered under the Outward Processing Program, as defined in the notice and letter to the Commissioner of Customs published in the **Federal Register** on December 14, 1999 (64 FR 69746).

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 77594, published on December 12, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 6, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 5, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 2001 and extending through December 31, 2001.

Effective on March 13, 2001, you are directed to reduce the current limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
435	9,830 dozen.
443	88,156 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

These limits do not apply to goods entered under the Outward Processing Program, as

defined in the letter to the Commissioner of Customs dated December 8, 1999 (64 FR 69746).

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D, Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–6198 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Singapore

March 6, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing limits.

EFFECTIVE DATE: March 13, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 65 FR 82328, published on December 28, 2000). Also see 65 FR 66727, published on November 7, 2000.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 6, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 27, 2000, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 2001 and extends through December 31, 2001.

Effective on March 13, 2001, you are directed to reduce the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
338/339	1,614,521 dozen of which not more than 943,540 dozen shall be in Category 338 and not more than 1,049,100 dozen shall be in Category 339.
347/348	1,164,817 dozen of which not more than 748,943 dozen shall be in Category 347 and not more than 549,019 dozen shall be in Category 348.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2000.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–6199 Filed 3–12–01; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, § 10(a), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting on March 28, 2001, in the first floor hearing room (Room 1000) of the Commission's Washington, D.C. headquarters, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. The meeting will begin at 1:30 p.m. and last until 5:00 p.m. The agenda will consist of the following:

Agenda

1. Welcoming remarks
2. The Commodity Futures Modernization Act of 2000 (CFMA) and proposed changes to CFTC regulations
3. ''Special Procedures to Encourage and Facilitate Bona Fide Hedging by Agricultural Producers,'' new Section 4p of the Commodity Exchange Act, as added by the CFMA
4. Review of agricultural trade options and other risk management alternatives in light of CFMA and proposed regulatory changes
5. Warehouse Act of 2000—implications for agricultural futures
6. Report on current activities by USDA's Risk Management Agency
7. Recent developments in electronic derivatives trading
8. Other business

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner David D. Spears, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: The Agricultural Advisory Committee, c/o Commissioner David D. Spears, Commodity Futures Trading Commission,Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, before the meeting. Members of the public who wish to make oral statements should inform Commissioner Spears in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, D.C. on March 7, 2001.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–6215 Filed 3–12–01; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Increase in Allowable Cost per Full-Time Equivalent (FTE) for Indian Tribes Applying for 2001 AmeriCorps Program Grant Funds

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (Corporation) announces an increase in the allowable cost per FTE for Indian Tribes applying for 2001 AmeriCorps funds. The Corporation will consider applications with a cost per FTE of up to $15,000, provided that the necessity for the increase is clearly documented in the proposal.

FOR FURTHER INFORMATION CONTACT: AmeriCorps Tribal Program Officer, (202) 606–5000, ext. 417. TDD (202) 565–2799. For individuals with disabilities, information will be made available in alternative formats upon request.

SUPPLEMENTARY INFORMATION: Pursuant to the National and Community Service Act of 1990, as amended (42 U.S.C. 12501 *et seq.*), the Corporation for National and Community Service (Corporation) makes grants to support national service programs. The Corporation has sent out application packets announcing the availability of approximately $2,000,000 for its 2001 AmeriCorps competition for new and continuing AmeriCorps program grants to Indian Tribes. According to the application instructions, no grant may exceed the total number of FTE AmeriCorps members multiplied by $12,100. This notice is to inform potential applicants that the Corporation will consider applications with a cost per FTE of up to $15,000, provided that the necessity for the increase is clearly documented in the proposal.

For example, if an applicant wishes to apply for a program supporting 20 full-time AmeriCorps members, the maximum grant award the applicant may receive is 20 x $15,000, or $300,000. If the applicant applies for 15 full-time members and 10 part-time members, the maximum grant award would also be 20 x $15,000, or $300,000.

Applicants should keep in mind that proposals requesting a lower cost per member might be deemed more competitive, as this is a factor in our evaluation criteria. Further, whether the Corporation will approve a budget of $15,000 per member may depend upon the aggregate amount requested by all applicants under this announcement.

Dated: March 7, 2001.

Peter Heinaru,

*Director, AmeriCorps*State/National.*

[FR Doc. 01–6216 Filed 3–12–01; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability (NOA) of the Fort Bliss, TX and New Mexico, Mission and Master Plan Final Programmatic Environmental Impact Statement (PEIS)

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: This announces the availability of the Fort Bliss Mission and Master Plan Final PEIS. The Final PEIS describes potential environmental impacts and mitigation actions associated with land use and management proposals regarding installation assets, capabilities, and infrastructure to support current and future missions. These proposed decisions are reflected in the Real Property Master Plan, the Integrated Natural Resources Management Plan, the Integrated Cultural Resources Management Plan, and land use designations and activities designated in the Training Area Development Concept and other installation initiatives.

DATES: The review period for the Final PEIS will end 30 days after publication of the NOA in the **Federal Register** by the U. S. Environmental Protection Agency.

ADDRESSES: To obtain copies of the Final PEIS, contact Dr. Brian Locke, U. S. Army Air Defense Artillery Center and Fort Bliss, Directorate of the Environment, ATTN: ATZC–DOC–C (PEIS), Building 624 North, Pleasonton Road, Fort Bliss, TX 79916–6812, or e-mail: PEIS@emh10.bliss.army.mil.

FOR FURTHER INFORMATION CONTACT: Dr. Brian Locke at (915) 568–3016.

SUPPLEMENTARY INFORMATION: The Final PEIS includes analyses of the environmental consequences that each of four alternatives may have on land use, infrastructure, airspace, earth resources, air quality, water resources, biological resources, cultural resources, noise, safety, hazardous materials, socioeconomics, and environmental justice. The findings indicate that potential environmental impacts from each alternative may include changes to land use, increased soil erosion, and impacts to biological and cultural resources. Cumulative impacts may occur to land use, biological resources, soils, and water resources. The level of military training use may increase under Alternatives 2 and 3. Improved cultural and natural resource management practices are proposed within their respective management plans and are expected to reduce the impacts of military training.

Public comment regarding environmental impacts centered on two principal issues: (1) Continuing availability of public access to the training complex for a variety of recreational and non-military purposes; and (2) impacts to vegetation and other natural resources arising from military training activities.

The alternatives to No Action (no implementation of Army short- and long-range plans or resource management plans, the current Fort Bliss missions, certain planned developments, and on-going maintenance activity) considered in this Final PEIS are as follows:

Alternative 1 incorporates the current missions assigned to Fort Bliss as described in the No Action Alternative. Beyond this, Alternative 1 would adopt recent updates to components of the Fort Bliss Real Property Master Plan, which includes the Long-range Component, Short-range Component, the Power Projection Platform Capital Investment Strategy, and informal modifications to the Mobilization Component. Also to be adopted under Alternative 1 are the Integrated Natural Resources Management Plan, the Integrated Cultural Resource Management Plan and a supplement to the Long-range Component. This includes adoption of a definitive training area land use plan for the Fort Bliss Training Complex as designated in Chapter 3.0—Current Conditions, of the Fort Bliss Training Area Development Concept. Adoption of these plans would authorize the steps leading to program and appropriate project implementation as described in the Final PEIS.

Alternative 2 includes all actions in Alternative 1 and additionally would increase, by approximately 13.5 square miles, the availability of controlled access Field Training Exercise sites on the McGregor Range portion of the Fort Bliss Training Complex. If Alternative 2 is adopted programmatically, environmental impacts of these additional proposed Field Training Exercise sites will be specifically evaluated in a separate environmental

document(s) that may be tiered from this Final PEIS.

Alternative 3 is the Army's preferred alternative and includes all actions in Alternatives 1 and 2 and additionally would adopt the training uses of the Fort Bliss Training Complex as presented in Chapter 4.0—Future Development Concept, of the Fort Bliss Training Area Development Concept. If approved programmatically, evaluation of specific projects proposed in the future will be evaluated in a separate environmental document(s).

The revised Long-range Component of the Fort Bliss Real Property Master Plan, the Integrated Natural Resources Management Plan, the Integrated Cultural Resource Management Plan, and the Training Area Development Concept are available for review in the following libraries: El Paso Public Library Main Library, 501 North, Oregon Street, El Paso, TX; Irving Schwartz Branch, El Paso Public Library, 1865 Dean Martin Drive, El Paso, TX; Westside Branch, El Paso Public Library, 125 Belvidere Street, El Paso, TX; Branigan Memorial Library, 200 E Picacho Avenue, Las Cruces, NM; Library, Dell City, TX; Library, 920 Oregon, Alamogordo, NM; New Mexico State University Branson Library, Frenger at Williams, Las Cruces, NM; New Mexico State University, Roswell, Library, 52 University Boulevard, Roswell, NM; University of Texas at El Paso Library, 500 West University Avenue, El Paso, TX; and Library, 20 Curfew Place, Cloudcroft, NM.

Dated: March 7, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 01–6186 Filed 3–12–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Draft Environmental Impact Statement (DEIS) for Future Development and Operations at Fort George G. Meade, Maryland

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability.

SUMMARY: This announces the availability of the DEIS that assesses the effects of future development and operations at Fort Meade on the natural and human environment.

The Proposed Action is the preferred alternative of the DEIS, and includes future development and operations of Fort Meade's Real Property Master Plan expected to occur on the installation between 2000 and 2005 as part of plans to further Fort Meade's new mission as a Federal administrative center. The Proposed Action identifies 11 projects as being representative of the expected build out during this time. These consist of construction of new facilities that would consolidate tenants from dilapidated World War II structures and off-post leased facilities into more cost efficient and effective facilities; demolition and construction of barracks and mess halls; and providing on-post development opportunities for tenants on installations that are currently subject to Base Realignment and Closure. Other alternatives considered by the DEIS include the No Action Alternative and Alternative A. The No Action Alternative is defined as the normal daily operations at Fort Meade and adjacent areas as of 1999. Alternative A consists of constructing 9 of the 11 projects purposed by the Proposed Action, and excludes the two projects least likely to occur. Alternative A would reduce the number of additional personnel envisioned by the full build out of the Proposed Action to the installation by 272, or 30 percent of the 912 additional personnel included in the Proposed Action.

DATES: Written comments received within 45 days of the publication of this Notice of Availability by the Environmental Protection Agency in the **Federal Register** for this action will be considered by the Army during final decision making and the preparation of the Final Environmental Impact Statement (FEIS).

ADDRESSES: Send requests for a copy of the DEIS or provide written comments to Commander, Fort George G. Meade, ATTN: ANME–DPW (Mr. Jim Gebhardt), Bldg. 239, 2½ Street and Ross Road, Fort Meade, Maryland 20755–5115.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Gebhardt, Environmental Engineer, Fort Meade Directorate of Public Works, Environmental Management Office at (301) 677–9365.

SUPPLEMENTARY INFORMATION: The DEIS concluded that the cumulative impacts of all past, present and reasonably foreseeable future actions would have a significant impact on traffic and air quality in the study area. Whereas the population in the area immediately surrounding Fort Meade is not expected to noticeably increase, growth in population and activity in the Region of Influence (Anne Arundel and Howard Counties) are expected to exceed the average annual rate in Maryland. Detailed studies concluded, however, that the contribution of Fort Meade is small relative to the regional air quality and traffic problems, and that it is reasonable to proceed with the Proposed Action while intensifying efforts to work in partnership with the State and others to address the larger traffic and air quality issues.

Fort Meade is currently undertaking four initiatives that will help mitigate the adverse air quality impacts in the region: (1) Conversion of existing oil-fired heating systems to natural gas, (2) use of vehicles powered by natured gas, (3) installation of more energy-efficient devices, and (4) fostering an extensive tree planting and reforestation program. To address traffic impacts, Fort Meade is considering encouraging the use of alternative transportation (*e.g.,* carpooling and flextime), although major rail or bus lines do not currently service the installation. In addition, the construction of the MD Route 198 by-pass onto Fort Meade via the former Tipton Army Airfield by the Maryland State Highway Administration is designed to limit the through traffic at Fort Meade to those who reside, work or visit the installation for recreation or other purposes. This is expected to reduce congestion at the intersection of MD Routes 198 and 32.

Other resources that would be measurably affected by the Proposed Action or Alternative A are water quality (by stormwater runoff), utility systems infrastructure, and noise. Considering the best management practices planned by Fort Meade to address these effects, no significant impacts to these resources from the Proposed Action, Alternative A or cumulative effects of other actions are expected to occur. The completion of the 11 projects under the Proposed Action would increase Fort Meade's annual economic contribution to the Region of Influence.

A public meeting will be held after publication of this Notice of Availability of the DEIS during the 45-day public comment period at a date to be announced in the local news media. All interested individuals, private organizations, and government agencies are encouraged to provide input into the EIS review process. All comments received will be addressed and included in the FEIS.

Resource agency coordination was undertaken with the following agencies: U.S. Department of the Interior, Fish and Wildlife Service; National Park Service; U.S. Environmental Protection Agency; State of Maryland Department of Natural Resources, Department of the Environment, Department of Agriculture, Highway Administration,

and Historical Trust; Anne Arundel County Office of Planning and Zoning, Soil Conservation District, and Department of Public Works.

Dated: March 7, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA(I&E).

[FR Doc. 01–6187 Filed 3–12–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to Amend Systems of Records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on April 12, 2001 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 5, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0621–1 TAPC

SYSTEM NAME:

Civilian Schooling for Military Personnel (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Any Active Duty Army, Army National Guard and Army reserve member who applies for and is selected or attendance at a civilian school or training with industry, or participation in a fellowship/scholarship of training or instruction.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'Name, grade, Social Security Number, address, home phone, duty phone, permanent legal address, branch of service, date of birth, marital status, number of dependents, Application for Detail as Student in a Civilian Educational Institution and Report of Training to Agency, state of legal residence, military occupational specialties, enlistment status, component, foreign service, civilian educational data, military educational data, transcripts, social fraternities, honorary fraternities, clubs, degree major, class standing and personal resumes, school contracts; student training report; photographs; enlisted qualification record; theses; statements of service and school obligation.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 4301, Members of Army: Detail as Students, Observers and Investigators at Educational Institutions, Industrial Plants, and Hospitals; Army Regulation 621–1, Training of Military Personnel at Civilian Institutions and E.O. 9397 (SSN).'

PURPOSE(S):

Delete 'pursuant to 10 U.S.C. 4301'.

STORAGE:

Delete entry and replace with 'Paper records in file folders, microfilm and electronic storage media.'

RETRIEVABILITY:

Add to entry 'Social Security Number, and other numerous data elements.'

SAFEGUARDS:

Delete entry and replace with 'Records are maintained in areas accessible only to authorized personnel and only in the performance of assigned duties. Use of automated systems require user identification and passwords granted to authorized personnel responsible for the administration and processing of individual student data.'

RETENTION AND DISPOSAL:

CHANGE TO READ:

Offices having Army-wide responsibility: Documents on the development and supervision of civilian schooling for military personnel and annual review of the Army's Civilian Education Program records maintain as permanent; all other records in this category maintain and destroy after 15 years. Training agencies: Maintain records for 15 years then destroy. United States Military Academy: Paper originals destroy after verification that information has been transferred to microfilm. Maintain microfilm as permanent. For all other activities and offices maintain records for two years then destroy.

A0621–1 TAPC

SYSTEM NAME:

Civilian Schooling for Military Personnel.

SYSTEM LOCATION:

U.S. Total Army Personnel Command, Chief, Civilian Education, 200 Stovall Street, Alexandria, VA 22332–0400. Segments exist at Army commands/installations, organizations/activities, including overseas areas. Official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Active Duty Army, Army National Guard and Army Reserve member who applies for or is selected for attendance at civilian school or for training with industry, or participation in a fellowship/scholarship program of training or instruction.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains Department of the Army Forms 1618–R, Application for Detail as Student Officer in a Civilian Educational Institution of Training with Industry Program; 2593–R, Application for Selection for Scientific and Engineering Graduate School; and 3719–R, Information Questionnaire for Recipients of Top Five Percent Army Fellowship (ROTC and U.S.MA),

containing name, grade, Social Security Number, address, home phone, duty phone, permanent legal address, branch of service, date of birth, marital status, number of dependents, state of legal residence, military occupational specialities, enlistment status, component, foreign service, civilian educational data, military educational data, transcripts, social fraternities, honorary fraternities, clubs, degree major, class standing and personal resumes, school contracts; student training report; photographs; enlisted qualification record; theses; statements of service and schooling obligation; U.S. Armed Forces Institute test report; civilian institution academic evaluation reports, Standard Form 1034, Public Voucher for Purchases and Services Other Than Personal, similar relevant documents and correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 4301; and E.O. 9397 (SSN).

PURPOSE(S):

To document, monitor, manage, and administer the service member's attendance at a civilian training agency or civilian school.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfilm and electronic storage media.

RETRIEVABILITY:

By individual's name, Social Security Number, and other numerous data elements.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel and only in the performance of assigned duties. Use of automated systems require user identification and passwords granted to authorized personnel responsible for the administration and processing of individual student data.

RETENTION AND DISPOSAL:

Destroyed by shredding after 2 years.

SYSTEM MANAGER(S) AND ADDRESSES:

Commander, U.S. Total Army Personnel Command, Chief, Civilian Education, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0411.

Individual should provide the full name, Social Security Number, current address and telephone number, sufficient details concerning the civilian school attended to permit locating the record, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0411.

Individual should provide the full name, Social Security Number, current address and telephone number, sufficient details concerning the civilian school attended to permit locating the record, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, Army records and reports, documents from the civilian school or industry training agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–6133 Filed 3–12–01; 8:45 am]
BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on April 12, 2001 unless comments are received which result in a contrary determination.

ADDRESSES: Records Management Division, U.S. Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop 5603, 6000 6th Street, Ft. Belvoir, VA 22060–5603.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 5, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0600–8–1b TAPC

SYSTEM NAME:

Line of Duty Investigations (February 22, 1993, 58 FR 10002).

CHANGES:

* * * * *

SYSTEM LOCATION:

Add to entry 'Regional Support Centers for U.S. Army Reserve, official mailing addresses are published as an appendix to the Army's compilation of record systems notices.'

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with 'Active duty, Reserve and National Guard members who have been injured, diseased or deceased and who are in a duty status.'

CATEGORIES OF RECORDS IN THE SYSTEM:

Add to entry 'approval/disapproval authority memoranda'.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 972, Members: Effect of time lost; 10 U.S.C. 1204, Members, on Active Duty for 30 days or less or on inactive duty training: retirement; 10 U.S.C. 1207, Disability from intentional misconduct of willful neglect: separation; 10 U.S.C. 3013, Secretary of the Army; 37 U.S.C. 802, Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs; and E.O. 9397 (SSN).'

PURPOSE(S):

Delete entry and replace with 'To review facts and circumstances of service member's death, injury or disease and render decisions having the effect of approving/denying certain military benefits, pay and allowances.'

* * * * *

STORAGE:

Delete entry and replace with 'Paper records in file folders, microfiche and electronic storage media.'

RETRIEVABILITY:

Add to entry ''Social Security Number''.

SAFEGUARDS:

Delete entry and replace with ''Paper records in file folders are maintained in file cabinets accessible only to authorized personnel in the performance of their duties. Electronic storage media accessible to authorized personnel with password capability.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Documents related to determining line of duty status and incident investigation concerning individual Army members are maintained for 5 years then destroyed.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''From the individual, medical records, service member's commander, official Army records and reports, witness statements, civilian and military law enforcement agencies.''

* * * * *

AO600–8–1b TAPC

SYSTEM NAME:

Line of Duty Investigations.

SYSTEM LOCATION:

Personnel Plans and Actions Branch, Personnel Service Center at Army Installations; Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249–0601; U.S. Total Army Personnel Command, Alexandria, VA 22332–0400; U.S. Army Reserve Personnel Center, 9700 Page Avenue, St. Louis, MO 63132–5200; National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132–5200; National Guard Bureau, 5109 Leesburg Pike, Falls Church, VA 22041–3258; and Regional Support Centers for U.S. Army Reserve, official mailing addresses are published as an appendix to the Army's compilation of record systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty, Reserve and National Guard members who have been injured, diseased or deceased and who are in a duty status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statement of Medical Examination and Duty Status; Report of Investigation-Line of Duty and Misconduct Status; approval/disapproval authority memoranda, and other relevant supporting documents such as military police reports, accident reports, witness statements, and appointment instruments, and action on appeals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 972, Members: Effect of time lost; 10 U.S.C. 1204, Members, on Active Duty for 30 days or less or on inactive duty training; retirement; 10 U.S.C. 1207, Disability from intentional misconduct of willful neglect: separation; 10 U.S.C. 3013, Secretary of the Army; 37 U.S.C. 802, Forfeiture of pay during absence from duty due to disease from intemperate use of alcohol or drugs; and E.O. 9397 (SSN).

PURPOSE(S):

To review facts and circumstances of service member's death, injury or disease and render decisions having the effect of approving/denying certain military benefits, pay and allowances.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b) (3) as follows:

Information may be provided to the Department of Veterans Affairs for the purpose of determining the service member's entitlement to benefits.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army' compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, microfiche and electronic storage media.

RETRIEVABILITY:

By Social Security Number and by service member' surname.

SAFEGUARDS:

Paper records in file folders are maintained in file cabinets accessible only to authorized personnel in the performance of their duties. Electronic storage media accessible to authorized personnel with password capability.

RETENTION AND DISPOSAL:

Documents related to determining line of duty status and incident investigation concerning individual Army members are maintained for 5 years then destroyed.

SYSTEM MANGER(S) AND ADDRESS:

Commander, U.S. Total Army Personnel Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the Commander, U.S. Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249–0601 (For enlisted personnel on active duty); Commander, U.S. Total Army Personnel Command, Alexandria, Va 22332–0400 (For officers on active duty); Commander, U.S. Army Reserve Personnel Center, 9700 Page Avenue, St. Louis, MO 63132–5200 (For Army reserve personnel); National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132–5200 (For separated enlisted and officer personnel); National Guard bureau, 5109 Leesburg Pike, Falls Church, VA 22041–3258 (For full-time National Guard Duty under 32 U.S.C., those in federalized status, or those attending active Army service school).

Individuals should provide the full name, Social Security Number, present address, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the Commander, U.S. Army Enlisted Records and Evaluation Center, Fort Benjamin Harrison, IN 46249–0601 (For enlisted personnel on active duty);

Commander, U.S. total Army Personnel Command, Alexandria, VA 22332–0400 (For officers on active duty); Commander, U.S. Army Reserve Personnel Center, 9700 Page Avenue, St. Louis, MO 63132–5200 (For Army reserve personnel); National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132–5200 (For separated enlisted and officer personnel); National Guard Bureau, 5109 Leesburg Pike, Falls Church, VA 22041–3258 (For full-time National Guard Duty under 32 U.S.C., those in federalized status, or those attending active Army service school).

Individuals should provide the full name, Social Security Number, present address, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager. Appeals of determinations by authority of the Secretary of the Army are governed by AR 600–8–1, Army Casualty and Memorial Affairs and Line of Duty Investigations; collateral review of decided cases is limited to questions of completeness of the records of such determinations.

RECORD SOURCE CATEGORIES:

From the individual, medical records, service member's commander, official Army records and reports, witness statements, civilian and military law enforcement agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 01–6134 Filed 3–12–01; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education

Meeting

ACTION: Notice of meeting.

SUMMARY: This notice provides the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This notice is published less than 15 days prior to the date of the meeting as a result of special administrative clearances.

DATE AND TIME: March 20, 2001, 9 a.m. to 3:30 p.m.

ADDRESSES: The Washington Court Hotel, 525 New Jersey Avenue, NW., Washington, DC Telephone: (202) 628–2100.

FOR FURTHER INFORMATION CONTACT: Donald Fischer, U.S. Department of Education, 1990 K Street NW., Washington, DC 20006–8544. Telephone: (202) 502–7500 or by e-mail: *donald_fischer@ed.gov* Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday).

Individuals with disabilities may obtain this document in an alternate format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTAL INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Title VII, Part B, Section 742 of the Higher Education Amendments of 1998 (20 U.S.C. 1138a). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and procedures for grant awards.

The meeting of the National Board is open to the public. The National Board will meet on Tuesday, March 20, 2001, from 9 a.m. to 3:30 p.m. to provide an overview of the Fund's program status and special initiatives.

The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the meeting (*e.g.,* interpreting service, assistive listening device or materials in an alternate format) should notify the contact person listed in this notice as soon as possible before the scheduled meeting date. Although the Department will attempt to meet such a request, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement of Postsecondary Education, 8th Floor, 1990 K Street NW., Washington, DC 20006–8544 from the hours of 8 a.m. to 4:30 p.m.

Dated: March 8, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–6210 Filed 3–12–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

International Energy Agency Meetings

AGENCY: Department of Energy.

ACTION: Notice of meetings.

SUMMARY: The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet on March 20, 2001, at the headquarters of the IEA in Paris, France, and during March 21–23, 2001, in connection with the ''IEA Millennium Conference on Oil Security Strategy'' and a meeting of the IEA's Standing Group on Emergency Questions (SEQ).

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202–586–6738.

SUPPLEMENTARY INFORMATION: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following notice of meetings is provided:

Meetings of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on March 20–23, 2001, at the headquarters of the IEA, 9, rue de la Fédération, Paris, France, commencing on March 20, 2001, at approximately 2 p.m.. The meeting on March 20, 2001, will be of the IAB alone. The meetings on March 21–22, 2001, are being noticed in order to permit attendance by representatives of U.S. company members of the IAB at the ''IEA Millennium Conference on Oil Security Strategy'' which is to be held on those dates at IEA headquarters under the sponsorship of the IEA's Standing Group on the Oil Market (SOM) and Standing Group on Emergency Questions (SEQ). The meeting on March 23, 2001, is being noticed in order to permit attendance by U.S. company members of the IAB at a meeting of the SEQ to be held on that date at IEA headquarters.

The Agenda for the IAB meeting on March 20, 2001, is as follows:

- Views regarding the IEA Millennium Conference agenda
- Views regarding the SEQ Meeting agenda

- Industry input requested by IEA for the 2001 Program of Work
  —Disruption Simulation Exercise
  —Emergency Reserve issues
  —CERM (Coordinated Emergency Response Measures) activities
- Industry views in response to SEQ's request for intensified advice from the IAB
- Industry Supply Advisory Group

The Agenda for the ''IEA Millennium Conference on Oil Security Strategy'' on March 21–22, 2001, is under the control of the SOM and SEQ. It is expected that the IEA Millennium Conference will have the following Agenda:

I. The Changing Dynamics of Oil Markets

- The Oil Market in the Coming Decades
- The Impact of Industry Stocks and the Futures Market on Oil Market Dynamics
- Investments in Upstream Activities
- The Effect of Environmental Concerns
- The Shift from Oil to Natural Gas
- Oil Consumption in the Transport Sector

II. The Geopolitics of Oil Supply

- Future Supply Disruption and Dependence on the Middle East
- The Impact of Chokepoint Disruptions
- Security of Pipeline Networks

III. Future Emergency Response Strategy: Are IEA Measures Adequate to Meet the Challenges of the Next Several Decades?

- Current IEA Response Capability
- Cooperation with Non-Member Countries
- The Past and Future of Dialogue with Producers
- How Will Natural Gas Fit In?

IV. Strategies for Global Energy Security

- New Challenges and Strategies

The Agenda for the SEQ meeting on March 23, 2001, is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda
2. Approval of the Summary Records of the 100th Meeting and the Joint SEQ/SOM Meeting of November 14, 2000
3. SEQ Work Program
   —Year 2002 Work Program of the SEQ—First Elements
4. Measures to Ensure Compliance with IEA Stockholding Commitments
5. Supplementary Criteria for the Use of Emergency Stocks
6. The Treatment of Unavailable Stocks
7. Evaluation of the IEA Millennium Conference on Oil Security Strategy
8. Current Oil Market Situation and Security Considerations
   —Report on Oil Market Situation
   —Oil Data Transparency Initiatives
9. Analysis of Oil Stock Ticket Systems in IEA Member Countries
10. Emergency Reserve Issues
    —Emergency Reserve and Net Import Situation of IEA Countries IEA/SEQ(2001)9 on January 1, 2001
    —Emergency Reserve Situation of IEA Candidate Countries
11. Draft Questionnaire for Emergency Response Reviews
12. Policy and Legislative Developments in Member Countries
13. Current IAB Activities
14. Policy and Legislative Developments in Candidate Countries
    —Emergency Response Review of Korea
    —Status Report of Korea's Accession to the IEA
    —Other
15. Oil Security Developments in Non-Member Countries
    —Developments in China's Oil Security Policy IEA/NMC/SEQ(2001)1; IEA-China Workshop on Emergency Oil Stock Issues IEA/NMC/SEQ(2001)2 (April, Paris)
    —Workshop on Energy Security Concerns and Response Strategies for South Asia (February 10, New Delhi)
    —Other Initiatives and Events
16. Emergency Data System and Related Questions
    —Monthly Oil Statistics December 2000
    —Base Period FC First Quarter 2000/Fourth Quarter 2000
    —Quarterly Oil Forecast—Current Quarter First Quarter 2001
17. Emergency Reference Guide
    —Update of Emergency Contact Points List
18. Other Business
    —Dates of June and November Meetings

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), these meetings are open only to representatives of members of the IAB and their counsel, representatives of members of the SEQ, representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission, and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, D.C., March 8, 2001.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 01–6312 Filed 3–12–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy, (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments concerning proposed revisions and a three-year extension to December 31, 2004, for the Form EIA–767, ''Steam-Electric Plant Operation and Design Report.''

DATES: Written comments must be filed on or before May 14, 2001. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to John G. Colligan, Energy Information Administration, Electric Power Division, EI–53.1, Forrestal Building, U.S. Department of Energy, Washington, DC 20585–0650. Alternatively, John Colligan may be contacted by telephone at (202) 287–1756 FAX at (202) 287–1934, or e-mail at jcolliga@eia.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to John Colligan at the address listed above. The Form EIA–767 is available on EIA's web site: *http://www.eia.doe.gov/fuelelectric.html.*

SUPPLEMENTARY INFORMATION:

I. Background

II. Current Actions

III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. No. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of

1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) of the collections under section 3507(a) of the Paperwork Reduction Act of 1995.

The Form EIA–767, ''Steam-Electric Plant Operation and Design Report,'' is a mandatory form filed annually by fossil-fueled steam-electric power generating plants with a combined nameplate rating of 50 (MW) or greater. The EIA–767 collects operational data from fossil and nuclear electric power plants. These data are compiled and published in several EIA publications.

II. Current Actions

The EIA will request OMB approval of: (a) A three-year extension of collection authority through December 31, 2004 and (b) the revisions described below. The proposed changes reflect the current highly competitive state of the electric power industry as a whole and the power generators in particular. EIA recognizes that its information collections must continue to adapt as the industry changes.

EIA has completed an extensive review and update of the electric power survey collection series. The form presented here is the result of that task which includes input from all sectors of the electric power industry. Electric generation and sales continue the trend toward open competition. The degree of competition is not uniform throughout the country at this time, but continues to grow sporadically, as reported by electric power data suppliers. With the increase in open competition among generators there is a corresponding need for protection from disclosure of individually-identifiable commercially sensitive information. Along with form changes, the EIA is proposing a revision to the commercially sensitive data elements collected on the Form EIA–767 which will be treated as confidential.

The Form EIA–767, ''Steam-Electric Plant Operation and Design Report,'' collects plant operational data. Form EIA–767 will be filed annually by all existing and planned fossil-fueled electric generating plants with a combined nameplate rating of 50 megawatts or greater. A significant change to this form is an increase in the reporting threshold from 10 megawatts to 50 megawatts. The frame of the EIA–767 has been extended to include both regulated and unregulated generators. Also, a new Schedule 4D, ''Boiler Plant Information, Nitrogen Oxide Controls'' was created in order for all respondents to provide nitrogen oxide control information on a single schedule. Items 1 and 2 of Schedule 4D were previously found on Schedule 4C, and were completed only by generators 100 megawatts and greater; Schedule 4D, items 3, 4a, 4b, and 5 are new data elements. As a result of these and other additions (one data element on Schedule 4A regarding analysis method for primary fuel type, and three data elements on Schedule 9 regarding exit temperature of flue gas), a total of 8 data elements were added. However, 28 data elements were deleted, resulting in an overall net reduction of approximately 20 elements on the Form EIA–767.

With regard to confidential treatment of information reported to EIA on the electric power surveys, EIA is proposing changes in what elements will be treated as confidential and not released in individually-identifiable form. As the level of generation competition increases, so does the concern for the disclosure of confidential data. EIA is aware of these concerns regarding full disclosure of trade secrets. EIA is continuously monitoring the industry through the electric power survey system. Following are the EIA–767 survey data elements that will be treated as confidential and will not be disclosed at the identifiable individual facility level. Elements that are currently treated as confidential by EIA on the Form EIA–767 are marked by asterisks. EIA is proposing additional confidential data elements which are listed below:

a—Planned equipment*, planned plant changes*, planned retirement dates*, and fuel projections*;
b—Heat rates*;
c—Fuel consumption;
d—Fuel quality;
e—Financial data;
f—Thermal output.

The EIA–767 form and instructions will address the specific data elements that will be treated as confidential.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. Public reporting burden for this collection is estimated to average 83.16 hours per response, previous burden was 84.00 hours per response. In your opinion, how accurate is this estimate?

D. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

E. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. Is the information useful at the levels of detail to be collected?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Section 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, March 7, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 01–6138 Filed 3–12–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Agency information collection activities: proposed collection; comment request.

SUMMARY: The EIA is soliciting comments concerning proposed revisions to existing electric power survey forms, the creation of new forms, and a three-year extension to December 31, 2004, approval for all EIA electric power surveys. EIA's current electric power surveys are:

Form EIA–411, ''Coordinated Bulk Power Supply Program Report,''
Form EIA–412, ''Annual Report of Public Electric Utilities,''
Form EIA–417R, ''Electric Power Systems Emergency Report,''
Form EIA–826, ''Monthly Electric Utility Sales and Revenue Report with State Distributions,''
Form EIA–860A, ''Annual Electric Generator Report—Utility,''
Form EIA–860B, ''Annual Electric Generator Report—Nonutility,''
EIA–861, ''Annual Electric Utility Report,'' and
Form EIA–906, ''Power Plant Report'' (which replaced Forms EIA–759 and EIA–900 beginning with the reporting of January 2001 information).

EIA is proposing the changes outlined in this notice. The changes will result in the electric power survey forms listed below:

Form EIA–411, ''Coordinated Bulk Power Supply Program Report,''
Form EIA–412 ''Annual Electric Industry Financial Report,''
Form EIA–423, ''Cost and Quality of Fuels for Electric Plants,''
Form EIA–826, ''Monthly Electric Sales and Revenue Report with State Distributions,''
Form EIA–860, ''Annual Electric Generator Report'' (combined Forms EIA–860A and EIA–860B),
Form EIA–861, ''Annual Electric Power Industry Report,'' and
Form EIA–906, ''Power Plant Report.''
Form EIA–417R is not included in EIA's electric power surveys package for this comment request. Form EIA–417R will be included in a future separate Federal Register notice.

DATES: Written comments must be filed on or before May 14, 2001. If you anticipate difficulty in submitting comments within that period, contact the person listed below as soon as possible.

ADDRESSES: Send comments to John G. Colligan, Energy Information Administration, Electric Power Division, EI–53.1, U.S. Department of Energy, Washington, DC 20585–0650. Alternatively, John Colligan may be contacted by telephone at (202) 287–1756, FAX at (202) 287–1946, or by e-mail at jcolliga@eia.doe.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of forms and instructions should be directed to John Colligan at the address listed above. All of the proposed forms are available on EIA's web site: *http://www.eia.doe.gov/fuelelectric.html.*

SUPPLEMENTARY INFORMATION:

I. Background

II. Current Actions

III. Request for Comments

I. Background

The Federal Energy Administration Act of 1974 (Pub. L. No. 93–275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. No. 95–91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

The EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35), provides the general public and other Federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with the EIA. Any comments received help the EIA to prepare data requests that maximize the utility of the information collected, and to assess the impact of collection requirements on the public. Also, the EIA will later seek approval by the Office of Management and Budget (OMB) of the collections under section 3507(a) of the Paperwork Reduction Act of 1995.

The EIA collects information about the electric power industry for use by government and private sector analysts. The survey information are disseminated in a variety of publications, electronic products, and electronic data files. For details on EIA's electric power information program, please visit EIA's web site at *http://www.eia.doe.gov/fuelelectric.html.*

II. Current Actions

The EIA will request OMB approval of: (a) a three-year extension, through December 31, 2004, for all the forms listed, and (b) modifications to the specific forms described below. The proposed changes EIA is requesting through this action reflect the increasingly competitive nature of the electric power industry as a whole and the power generators in particular. EIA recognizes that its information collections must continue to adapt as the industry changes. Elements associated with distributed generation are not included on current forms at this time. A final decision regarding the collection of this information has not been made, and the elements may be included in EIA's final proposal.

EIA has completed an extensive review and update of the electric power survey collection series. The forms presented here are the result of that task which includes input from all sectors of the electric power industry. Electric generation and sales are continuing the trend toward open competition. The degree of competition is not uniform throughout the country at this time, but continues to grow sporadically, as reported by the EIA electric power data suppliers. With the increase in competition among generators there is a corresponding increase in the need for protection from disclosure of individually-identifiable commercially sensitive information. Along with the forms changes, the EIA is proposing a revision to the commercially sensitive data elements collected on EIA's electric power forms which will be treated as confidential.

As a means of improving its electric power surveys to reflect the changing industry, EIA proposes the following changes.

Form EIA–411, ''Coordinated Bulk Power Supply Program Report.'' The most important change to the Form EIA–411 is the expansion of the data collected on transmission assets. Specifically, Item 6, Proposed Bulk Electric Transmission Line Additions, has been replaced with Schedule 6, Proposed Electric Transmission Asset

Data. The new schedule collects 10 additional data elements on planned transmission lines (Part A), 10 new data elements on planned substations (Part B), and five new data elements on other transmission facilities (Part C). Four data elements were added to Schedule 3, Parts B and D, collecting information on existing and planned generating capacity (Parts B and D, respectively). Together, these represent a net addition of 29 data elements on the Form EIA–411. Respondents also will be asked to provide a transmission system schematic, in addition to the transmission system map already required. The form and instructions will be modified to show these changes.

Form EIA–412 ''Annual Report of Public Electric Utilities,'' will be renamed ''Annual Electric Industry Financial Report,'' to reflect the new requirement that unregulated power producers will also provide annual plant cost data on Schedule 10, Large Electric Generating Plant Statistics. On Schedule 1, one element was deleted. Schedule 10 combines the old Schedules X and XI that collected similar data from steam-electric and hydroelectric plants, respectively. The scope of the survey also has been broadened to include all steam-electric generators with an electric generator nameplate rating of 25,000 kilowatts (kW) or larger, and gas-turbine and hydro plants with a nameplate rating of 10,000 kW or larger.

Also of significance are the changes proposed for the collection of transmission asset data on the Form EIA–412. Schedule 12 has been deleted and replaced with Schedule 11 to collect transmission line, substation, and other transmission facility information. This new schedule will collect existing and added (within the last year) asset information. Included in the ''added'' asset information will be cost data. By deleting the current Schedule 12, eight data elements will be eliminated. The new Schedule 11 will consist of six sections as shown below:

—Existing Transmission Line Information, Part A—18 data elements;
—Existing Substation Information, Part B—10 data elements;
—Existing Other Transmission Facility Information, Part C—6 data elements;
—Added Within Last Year Transmission Line Information, Part D—24 data elements;
—Added Within Last Year Substation Information, Part E—12 data elements; and
—Added Within Last Year Other Transmission Facility Information, Part F—10 data elements.

As a result of these actions, the overall net change for the Form-412 is an increase of about 35 data elements. The form and instructions will be modified to show these changes.

Form EIA–423, ''Cost and Quality of Fuels for Electric Plants,'' is a new EIA electric power survey form. Currently, the Federal Energy Regulatory Commission (FERC) collects information on fuels received by electric plants subject to FERC jurisdiction. EIA proposes to collect monthly information on fossil fuels from electric plants not reporting on FERC Form 423. The data to be collected includes the cost and quality of fossil fuels delivered for the generation of electric power by unregulated generators, and from all non-steam regulated generators with a nameplate capacity of 50 megawatts or greater.

Form EIA–826, ''Monthly Electric Utility Sales and Revenue Report with State Distributions,'' will be renamed ''Monthly Electric Sales and Revenue Report with State Distributions.'' The form and instructions will be modified to show these changes.

Form EIA–860A, ''Annual Electric Generator Report—Utility,'' will be replaced with Form EIA–860, ''Annual Electric Generator Report.''

Form EIA–860B, ''Annual Electric Generator Report—Nonutility,'' will be replaced with Form EIA–860, ''Annual Electric Generator Report.''

Form EIA–860, ''Annual Electric Generator Report,'' will be a new form merging all information currently collected on Form EIA–860A and portions of the Form EIA–860B. As a result of combining these forms, there is a net decrease of four data elements. Respondents will include all electric generators over 1 megawatt. The form and instructions will be modified to show these changes.

Form EIA–861, ''Annual Electric Utility Report,'' will be renamed ''Annual Electric Power Industry Report.'' The change in the survey name more accurately reflects the current industry structure. On Schedule 1, two elements pertaining to the identification of the company were deleted. Two elements with respect to the North American Electric Council will be combined as one, eliminating one element on Schedule 2, Part A. On the changed form Schedule 2B, Sources and Disposition, will be completed by companies in both the regulated and unregulated sectors of the electric power industry. Two data elements are being added to Schedule 3, revenue from unbundled customers and cost of wholesale purchases. Two additional data elements pertaining to ''price responsive'' customer load have been added to Schedule 5, Demand-Side Management. One data element related to the term of requirement contracts was deleted from Schedule 2A. The form and instructions will be modified to show these changes.

Form EIA–906, ''Power Plant Report,'' is a new form in 2001 that replaced the Form EIA–759, ''Monthly Power Plant Report,'' and Form EIA–900 ''Monthly Nonutility Sales for Resale Report.'' The Form EIA–906 combined and incorporated data elements from both the Form EIA–759 and the Form EIA–900. No further revisions are planned to Form EIA–906 at this time.

With regard to confidential treatment of information reported to EIA on the electric power surveys, EIA is proposing changes in certain elements that will be treated as confidential and not released in individually-identifiable form. As the level of generation competition increases, so does the concern for the disclosure of confidential data. EIA is aware of these concerns regarding full disclosure of trade secrets and proprietary information. EIA is continuously monitoring the industry through the electric power survey system. Based on EIA's review of the industry and the changing competitive environment, EIA is proposing to increase the number of electric power survey elements that will be treated as confidential. Following are the data elements that will be treated as confidential across all EIA electric power surveys beginning in 2002 and will not be disclosed in individually-identifiable form. (Elements that are currently treated as confidential by EIA are marked by asterisks.)

a—Planned equipment*, planned plant changes*, planned retirement dates*, and fuel projections*;
b—Heat rates*;
c—Fuel consumption, quantity, quality, and cost;
d—Sales for resale, wholesale;
e—Sales to end user*;
f—Retail sales, revenues and numbers of customers;
g—Financial data;
h—Fuel stocks/inventory*;
i—Thermal output;
j—Cost of purchase power.

The individual forms and instructions will address the specific data elements for each survey that will be treated as confidential.

III. Request for Comments

Prospective respondents and other interested parties should comment on the actions discussed in item II. The following guidelines are provided to assist in the preparation of comments.

Please indicate to which form(s) your comments apply.

General Issues

A. Is the proposed collection of information necessary for the proper performance of the functions of the agency and does the information have practical utility? Practical utility is defined as the actual usefulness of information to or for an agency, taking into account its accuracy, adequacy, reliability, timeliness, and the agency's ability to process the information it collects.

B. What enhancements can be made to the quality, utility, and clarity of the information to be collected?

As a Potential Respondent to the Request for Information

A. Are the instructions and definitions clear and sufficient? If not, which instructions need clarification?

B. Can the information be submitted by the due date?

C. Public reporting burden for each collection is estimated and shown below as an average hour(s) per response. The estimated burden includes the total time necessary to provide the requested information. In your opinion, how accurate are these new estimates?

—Form EIA–411, ''Bulk Power Supply Program Report,''—16.15 hours per response (previous estimate was 20.00 hours);
—Form EIA–412 ''Annual Electric Industry Financial Report Utilities,''
—32.30 hours per response (previous estimate was 30.30 hours);
—Form EIA–423, ''Cost and Quality of Fuels for Electric Plants.''—2.00 hours per response (new form);
—Form EIA–826, ''Monthly Electric Sales and Revenue Report with State Distributions,''—1.50 hours per response (previous estimate was 1.40 hours);
—Form EIA–860, ''Annual Electric Generator Report,''—16.12 hours per response (previous estimate was 15.00 hours for Form EIA–860A and 2.12 hours for Form EIA–860B);
—Form EIA–861, ''Annual Electric Power Industry Report.''—7.30 hours per response (previous estimate was 7.50 hours); and
—Form EIA–906, ''Power Plant Report.''—1.40 hours per response (previous estimate was 1.40 hours for EIA–759 and 0.50 hours for Form EIA–900).

D. The agency estimates that the only cost to a respondent is for the time it will take to complete the collection. Will a respondent incur any start-up costs for reporting, or any recurring annual costs for operation, maintenance, and purchase of services associated with the information collection?

E. What additional actions could be taken to minimize the burden of this collection of information? Such actions may involve the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

F. Does any other Federal, State, or local agency collect similar information? If so, specify the agency, the data element(s), and the methods of collection.

As a Potential User of the Information To Be Collected

A. Is the information useful at the levels of detail to be collected?

B. For what purpose(s) would the information be used? Be specific.

C. Are there alternate sources for the information and are they useful? If so, what are their weaknesses and/or strengths?

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the form. They also will become a matter of public record.

Statutory Authority: Sections 3506(c)(2)(A) and 3507(h)(1) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13, 44 U.S.C. Chapter 35).

Issued in Washington, DC, March 7, 2001.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 01–6139 Filed 3–12–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1071–001]

Badger Windpower, LLC; Notice of Filing

March 7, 2001.

Take notice that on March 2, 2001, Badger Windpower, LLC (Badger) tendered for filing an amendment to its application in the above-captioned docket. The amendment consists of a redesignated Renewable Power Purchase Agreement in accordance with Order No. 614.

Copies of this filing have been served on the Public Service Commission of Wisconsin, Florida Public Service Commission, Arkansas Public Service Commission, Mississippi Public Service Commission, Louisiana Public Service Commission, Texas Public Utility Commission, and the Council of the City of New Orleans.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protests 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 March 19, 2001. 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*.

David P. Boergers,

Secretary.

[FR Doc. 01–6151 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–265–000]

Colorado Interstate Gas Company; Notice of Tariff Filing

March 7, 2001.

Take notice that, on March 1, 2001, Colorado Interstate Gas Company (CIG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Twentieth Revised Sheet No. 11A, with an effective date of April 1, 2001.

CIG states that the tariff sheet reflects an increase in its fuel reimbursement percentage for Lost, Unaccounted-For and Other Fuel Gas from 0.78% to 1.07% effective April 1, 2001.

CIG states that copies of this filing have been served on CIG's jurisdictional customers and public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions

or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6154 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–264–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001, Columbia Gas Transmission Corporation (Columbia), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of April 1, 2001:

Fiftieth Revised Sheet No. 25
Fiftieth Revised Sheet No. 26
Fiftieth Revised Sheet No. 27
Forty-fifth Revised Sheet No. 28

Columbia states that this filing comprises Columbia's annual filing pursuant to Section 36.2 of the General Terms and Conditions (GTC) of its Tariff. GTC Section 36, ''Transportation Costs Rate Adjustment (TCRA),'' enables Columbia to adjust its TCRA rates prospectively to reflect estimated current costs and unrecovered amounts for the deferral period. The TCRA rates consist of a current TCRA rate, reflecting an estimate of costs for a prospective 12-month period, and a TCRA surcharge rate, which is a true-up for actual activity within the deferral period. In this filing, the TCRA rate consists of a Current Operational TCRA Rate and an Operational TCRA Surcharge to recover the unrecovered amounts for the deferral period pursuant to GTC Section 36.4(a).

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 also be viewed on the web at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6158 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–262–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with a proposed effective date of April 1, 2001:

Ninth Revised Sheet No. 44

Columbia submits its annual filing pursuant to the provisions of Section 35, ''Retainage Adjustment Mechanism (RAM)'', of the General Terms and Conditions (GTC) of its Tariff. Ninth Revised Sheet No. 44 sets forth the retainage factors applicable to Columbia's transportation, storage and gathering services, as revised by this filing.

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 and 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6159 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–261–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001, Columbia Gas Transmission Corporation (Columbia), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of April 1, 2001:

Forty-ninth Revised Sheet No. 25
Forty-ninth Revised Sheet No. 26
Forty-ninth Revised Sheet No. 27
Forty-fourth Revised Sheet No. 28
Sixteenth Revised Sheet No. 31

Columbia states that these revised tariff sheets are filed pursuant to Section 45, ''Electric Power Costs Adjustment (EPCA),'' of the General Terms and Conditions (GTC) of Columbia's FERC Gas Tariff, Second Revised Volume No. 1. Section 45.1 allows Columbia to recover electric power costs, including carrying charges, incurred for compression or processing of natural gas by means of various Transportation EPCA Rates and an LNG EPCA Rate, each of which shall be comprised of a current EPCA rate and an EPCA surcharge. The Transportation EPCA Rate is applicable to buyers under Columbia's FTS, NTS, SST, GTS, OPT, and ITS rate schedules. The LNG EPCA Rate is applicable to rate Schedules X–131, X–132, and X–133.

Columbia states that these revised tariff sheets are being filed to reflect adjustments to Columbia's current costs for electric power for the twelve-month period beginning April 1, 2001.

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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6160 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–266–000]

Columbia Gulf Transmission Company; Notice of Propose Changes in FERC Gas Tariff

March 7, 2000.

Take notice that on March 1, 2001, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of April 1, 2001:

Twenty-fifth Revised Sheet No. 18
Fifteenth Revised Sheet No. 18A
Twenty-sixth Revised Sheet No. 19

Columbia Gulf states that this filing represents Columbia Gulf's annual filing pursuant to the provisions of Section 33, ''Transportation Retainage Adjustment (TRA),'' of the General Terms and Conditions (''GTC'') of its Tariff.

Columbia Gulf states the tariff sheets listed above set forth the transportation retainage factors as a result of this filing. GTC Section 33.2 enables Columbia Gulf to state retainage factor or its rate zones, which factors consist of a current and an over/under recovered component. Pursuant to GTC Section 33.4(a), the current component reflects the estimate of total company-use, lost, and unaccounted-for quantities required during the 12-month period commencing, in an annual filing such as this, on April 1. Pursuant to GTC Section 33.4(b) the over/under recovered component reflects the reconciliation of ''actual'' company-use, lost, and unaccounted-for quantities with quantities actually retained by Columbia Gulf foe the preceding calendar year, i.e., the deferral period.

The deferral period for this annual filing is the preceding calendar year being January 1948 through December 31, 2000. Appendix A set forth Columbia Gulf's actual experience during the deferral period. As reflected therein, Columbia Gulf was in a net under-recovery position as of December 31, 2000. As a result, in this filing Columbia Gulf if implementing an under-covered surcharge component for each of the retainage factors to increase future quantities to be retained.

Columbia Gulf states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected the state commission.

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 20416, in accordance with Sections 385.214; 385.211 of the Commission's Rules and Regulations, All such motions or protect must be filed in accordance with Section 154.210 of the Commission's Regulations. Protest 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm

David P. Boergers,

Secretary

[FR Doc. 01–6157 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RP00–601–001]

Dominion Transmission, Inc., Notice of Compliance Filing

March 7, 2001.

Take notice that on March 1, 2001, Dominion Transmission Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets, with a proposed effective date of April 1, 2001:

First Revised Sheet No. 1500
First Revised Sheet No. 1501

DTI states that this filing complies with the Commission's Order ''Order on Filings to Establish Imbalance Netting and Trading Pursuant to Order Nos. 587–G and 587–L'' issued October 27, 2000. In that order, the Commission directed DTI to provide an explanation of why a limitation on the ''operational impact area'' was necessary and under what circumstances the limitation would be imposed. The Commission also required DTI to remove tariff provisions providing for the imposition of transportation charges for imbalance netting and trading.

DTI states that copies of its letter of transmittal and enclosures have been

served upon DTI's customers and interested state commissions.

Any person desiring to protest said 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 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. 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6164 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–023]

Dominion Transmission, Inc.; Notice of Negotiated Rate

March 7, 2001.

Take notice that on February 28, 2001, Dominion Transmission, Inc. (DIT) tendered for filing sheets disclosing recently negotiated rate transactions. The tariff sheets relate to negotiated rate transactions between DTI and ''Pool Operators.'' DTI and the Pool Operators will enter into Service Agreements under DTI's Rate Schedule IT, to become effective March 1, 2001. Under these agreements, DTI has agreed to provide certain interruptible transportation service for the Pool Operators, for delivery at Dominion's Appalachian Aggregation Points.

DTI states that copies of the filing have been served upon 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(10)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6147 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–507–011]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001, 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, to become effective April 1, 2001:

Substitute First Revised Sheet No. 219C
Substitute Original Sheet No. 219D

El Paso states that the above tariff sheets are being filed to implement the Topock Delivery Rights Capacity Allocations required by the Commission's order issued February 26, 2001 at Docket No. RP99–507–004, et al.

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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at

http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6143 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–337–000]

Kern River Gas Transmission Company; Notice of Technical Conference

March 7, 2001.

On January 5, 2001, Kern River Gas Transmission Company (Kern River) filed pro forma tariff sheets proposing the pipeline's segmentation policy in compliance with Order No. 637 and as discussed during a technical conference held on October 12, 2000. Kern River's segmentation filing has been protested.

Take notice that a second technical conference to discuss the various issues raised by Kern River's filing will be held on Tuesday, March 20, 2001, at 9:30 am, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Parties protesting aspects of Kern River's filing should be prepared to discuss alternatives.

All interested persons and Staff are permitted to attend.

David P. Boergers,

Secretary.

[FR Doc. 01–6141 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–267–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001, Northern Border Pipeline Company (Northern Border) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective April 1, 2001:

Second Revised Sheet Number 1
First Revised Sheet Number 98
Third Revised Sheet Number 250A
Original Sheet Number 178
Original Sheet Number 179
Fourth Revised Sheet Number 251
Sheet Numbers 182–199
Second Revised Sheet Number 203
Third Revised Sheet Number 266
Second Revised Sheet Number 214A
Original Sheet Number 427
Original Sheet Number 428
Original Sheet Number 234A
Original Sheet Number 429B
Fifth Revised Sheet Number 235
Sheet Numbers 165–176
Original Sheet Number 177
Original Sheet Number 250A.01
Original Sheet Number 180
Original Sheet Number 181
Fourth Revised Sheet Number 253
Third Revised Sheet Number 212
Original Sheet Number 266A
Original Sheet Number 426
Sixth Revised Sheet Number 215
Original Sheet Number 429
Original Sheet Number 429A

Northern Border states that the purpose of this filing is to implement a new firm backhaul transportation service under Rate Schedule T–1B. In addition, Northern Border is proposing to revise certain currently effective tariff sheets to incorporate the proposed T–1B service.

Northern Border states that it has served a copy of the filing upon all of its contracted shippers 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6156 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–518–019]

PG&E Gas Transmission, Northwest Corporation; Notice of Proposed Change in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001, PG&E Gas Transmission, Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A, Thirteenth Revised Sheet No. 7, Sixth Revised Sheet No. 7A, First Revised Sheet No. 7B, Third Revised Sheet No. 7C, First Revised Sheet No. 7D and First Revised Sheet No. 7E. GTN requests that the above-referenced tariff sheets become effective March 1, 2001.

GTN states that these sheets are being filed to reflect the implementation of one negotiated rate agreement and the removal of footnotes providing details on negotiated rate agreements which have expired.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6142 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–067]

Reliant Energy Gas Transmission Company, Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as port of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective March 1, 2001:

Original sheet No. 8O

REGT states that the purpose of this filing is to reflect the addition of a new negotiated rate contract.

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). Comments and protests may be filed electronically via the internet in

lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6148 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–260–000]

Reliant Energy Gas Transmission Company; Notice of Tariff Filing

March 7, 2001.

Take notice that on March 1, 2001, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets to become effective April 1, 2001:

Fifth Revised Sheet No. 5
Fifth Revised Sheet No. 6
Sixth Revised Sheet No. 6

REGT states that the revised tariff sheets are filed in compliance with the Stipulation and Agreement (Settlement) approved by Commission order in Docket No. RP91–149 on March 31, 1992. Arkla Energy Resources, a division of Arkla, Inc. 58 FERC ¶ 61,359 (1992). REGT's March 1, 2001 filing is its ninth annual filing pursuant to the Settlement, and it proposes to continue the currently effective rate for the CSC Charge as provided in the Settlement, at $0.03 per Dth.

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 202–208–222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6161 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1178–002]

Sempra Energy Resources; Notice of Filing

March 7, 2001.

Take notice that on March 2, 2001, Sempra Energy Resources (SER) tendered for filing pursuant to Rule 205, 18 CFR 385.205, an amendment to its FERC Electric Rate Schedule No. 1 that was included in its application for authorization to sell energy, capacity, and certain ancillary services at market-based rates, filed with the Commission on February 6, 2001, and amended on February 9, 2001.

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 March 19, 2001. 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6152 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–30–000]

South Carolina Public Service Authority, New Horizon Electric Cooperative, Inc. and Saluda River Electric Cooperative, Inc. v. Duke Energy Corporation; Notice of Filing

March 7, 2001.

Take notice that on February 27, 2001, South Carolina Public Service Authority (Santee Cooper) and The Energy Authority, Inc. (TEA) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Motion to Join Co-Complainant and Reply of the Santee Cooper and TEA.

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 March 14, 2001. 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 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6153 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP95–64–006]

Tennessee Gas Pipeline Company; Notice of Cash-Out Report

March 7, 2001.

Take notice that on February 28, 2001, Tennessee Gas Pipeline Company (Tennessee), tendered for filing the

special one-time cashout report pursuant to the Stipulation and Agreement settling various issues relating to its cashout methodology (Cashout Settlement) accepted by the Federal Energy Regulatory Commission (Commission) in Tennessee Gas Pipeline Company, 87 FERC ¶ 61,106 (1999). Tennessee states that it will make the report available to any interested party requesting a copy.

Any person desiring to protest said 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 on or before March 14, 2001. 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6149 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–022]

TransColorado Gas Transmission Company; Notice of Compliance Filing

March 7, 2001.

Take notice that on March 1, 2001, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with a proposed effective date of March 1, 2001:

Twenty-Second Revised Sheet No. 21
Eighteenth Revised Sheet No. 22

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000. TransColorado states that the tendered tariff sheets revised TransColorado's Tariff to reflect the new negotiated-rate contract with Retex, Inc.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6146 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–553–003]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

March 7, 2001.

Take notice that on February 28, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain pro forma revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, to comply with the Federal Energy Regulatory Commission's Order issued on October 27, 2000 in Docket Nos. RM96–1–14 and RP00–553–001 and requests, if necessary, a further extension of time to implement imbalance netting and trading.

Any person desiring to protest said 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 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. 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6140 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–258–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets which are enumerated in Appendix A attached to the filing. The tariff sheets are proposed to be effective April 1, 2001.

Transco states that the instant filing is submitted pursuant to Section 41 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file to reflect net changes in the Transmission Electric Power (TEP) rates at least 30 days prior to each TEP Annual Period Beginning April 1. Attached in Appendix B are workpapers supporting the derivation of the revised TEP rates reflected on the tariff sheets included therein.

Transco states that the TEP rates are designed to recover Transco's transmission electric power costs for its electric compressor stations (Stations

100, 115, 120, 125, 145 and 205—. The costs underlying the revised TEP rates consist of two components—the Estimated TEP Costs for the period April 1, 2001 through March 31, 2002 plus the balance in the TEP Deferred Account including accumulated interest as of January 31, 2001. Appendix C contains schedules detailing the Estimated TEP Costs for the period April 1, 2001 through March 31, 2002 and Appendix D contains workpapers supporting the calculation of the TEP Deferred Account.

Transco states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6162 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–236–000]

Transcontinental Gas Pipe Line Corporation; Notice of Tariff Filing

March 7, 2001.

Take notice that on February 28, 2001, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain new and revised tariff sheets. The enclosed tariff sheets, which are enumerated in Appendix B to the filing, with a proposed effective date of March 31, 2001.

Transco proposes herein to revise its tariff to reflect new customer services and business practices that will be available on 1Linesm, a new, state of the art, internet-based, service delivery computer system that will replace Transco's current computer system. As is described more fully herein, Transco's proposed tariff modifications relate specifically to the following areas:

Offering Operational Balancing Agreements at wellhead receipt points and processing plants on the Transco system;

Revising imbalance resolution provisions to establish Operational Impact Areas, implementing imbalance netting and trading and modifying the existing cash out mechanism;

Establishing Operational Controls to address adverse operational conditions which impact flexibility;

Modifying the Nomination, confirmation, and Predetermined Allocation methodologies used to determine the daily allocations and, if necessary, capacity reductions, at receipt and delivery points;

Formalizing in Transco's tariff the pooling capabilities provided by Transco by adopting a new Rate Schedule Pooling and a Form of Service Agreement for pooling service; and

Modifying and formalizing certain pipeline business practices including those relating to capacity release, scheduling equality, liquefiable hydrocarbons processing, billing and payment, daily demand rates as well as other operational and business practices on the Transco system.

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 we at http://www.ferc.fed.us/online.rims.htm (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6163 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–288–015]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on March 1, 2001, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, proposed to become effective on March 1, 2001:

Tenth Revised Sheet No. 5B.05
Second Revised Sheet No. 5B.06
Substitute Original Sheet No. 5B.09
Original Sheet No. 5B.10

Transwestern states that the above sheets are being filed to describe a specific negotiated rate agreement with Astra Power LLC and to reflect the correct delivery point for BP Energy in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Transwestern further states that copies of the filing have been mailed to each of 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 at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

David P. Boergers,

Secretary.

[FR Doc. 01–6144 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–288–014]

Transwestern Pipeline Company, Notice of Proposed Changes in FERC Gas Tariff

March 7, 2001.

Take notice that on February 28, 2001, Transwestern Pipeline Company (Transwestern) tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, proposed to become effective on March 1, 2001:

Ninth Revised Sheet No. 5B.05
First Revised Sheet No. 5B.06
First Revised Sheet No. 5B.08
Original Sheet No. 5B.09

Transwestern states that the above sheets are being filed to describe four negotiated rate agreements with (1) Reliant Energy Services, (2) Richardson Products Company, (3) Sempra Energy Trading Corporation, and (4) BP Energy Company in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Transwestern further states that copies of the filing have been mailed to each of 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 at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6145 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–263–000]

Wyoming Interstate Company, Ltd.; Notice of Tariff Filing

March 7, 2001.

Take notice that on March 1, 2001, Wyoming Interstate Company, Ltd. (WIC) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 2, Sixth Revised Sheet No. 4C, to become effective April 1, 2001.

WIC asserts that the purpose of this filing is to comply with the Commission's orders, issued October 13 and December 21, 1999 in Docket No. RP97–375.

Specifically, this filing calculates new Columbia Exit Fee Surcharge Credits which shall be flowed back to WIC's maximum rate firm and interruptible shippers effective September 1, 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 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). Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

David P. Boergers,

Secretary.

[FR Doc. 01–6155 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1091–001, et al.]

Metropolitan Edison Company, et al.; Electric Rate and Corporate Regulation Filings

March 6, 2001.

Take notice that the following filings have been made with the Commission:

1. Metropolitan Edison Company

[Docket No. ER01–1091–001]

Take notice that on March 1, 2001, Metropolitan Edison Company (doing business as and referred to as GPU Energy) submitted for filing an amendment to its January 30, 2001 filing in this proceeding.

GPU Energy states that a copy of this filing has been served upon Calpine Construction Finance Company L.P., PJM Interconnection, L.L.C., and regulators in the Commonwealth of Pennsylvania.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket No. ER01–1356–000]

Take notice that on March 1, 2001, Commonwealth Edison Company (ComEd) submitted for filing a revised unexecuted Service Agreement for Network Integration Transmission Service (Service Agreement) between ComEd and the Illinois Municipal Electric Agency (IMEA) and a revised unexecuted Network Operating Agreement (Operating Agreement) between ComEd and the IMEA. These agreements modify and supersede a Network Integration Transmission Service Agreement and Network Operating Agreement currently on file with the Commission.

ComEd requests an effective date of February 1, 2001 for the Agreements and accordingly, seeks waiver of the Commission's notice requirements.

Copies of the filing were served on IMEA and the Illinois Commerce Commission.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. New England Power Pool

[Docket No. ER01–1357–000]

Take notice that on March 1, 2001, the New England Power Pool (NEPOOL) Participants Committee filed for acceptance materials (1) to permit NEPOOL to expand its membership to include ANP Marketing Company and PPL Wallingford Energy LLC (together, the Applicants); and (2) to terminate the memberships of Champion International Corporation (Champion) and Coastal Merchant Energy, LP (Coastal).

The Participants Committee requests an effective date of March 1, 2001 for commencement of participation in NEPOOL by Applicants and February 1, 2001 for the termination of Champion and Coastal.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Company of New Mexico

[Docket No. ER01–1358–000]

Take notice that on March 1, 2001, Public Service Company of New Mexico (PNM) submitted for filing four agreements with Tri-State Generation and Transmission Association, Inc. (Tri-State). The agreements include two Service Agreements under the terms of PNM's Open Access Transmission Tariff (one for Network Integration Transmission Service, and an associated Network Operating Agreement) and two related bi-lateral agreements (a Bus License Agreement, and a Maintenance and Capital Replacement Agreement).

All four agreements are dated February 28, 2001 and are to become effective on March 1, 2001. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Tri-State and to the New Mexico Public Regulation Commission.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. American Transmission Systems, Incorporation

[Docket No. ER01–1360–000]

Take notice that on March 1, 2001, American Systems, Incorporated filed an Agreement for construction of a new 138 kV delivery point with The Borough of Zelienople. The Agreement provides for the replacement of Zelienople's existing 4.16 kV distribution delivery point with a new 138 kV transmission delivery point. This filing is made pursuant to Section 205 of the Federal Power Act.

Copies of this filing have been served on Zelienople and the Pennsylvania Public Utility Commission

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. New York State Electric & Gas Corporation

[Docket No. ER01–1361–000]

Take notice that on March 1, 2001 New York State Electric & Gas Corporation (NYSEG) tendered for filing pursuant to Section 205 of the Federal Power Act and Section 35 of the Federal Energy Regulatory Commission's (FERC or Commission) Regulations, a February 27, 2001 Facilities Agreement with the Village of Bath (Bath). This Agreement provides for NYSEG to install a tap of its transmission system in order to provide increased reliability to Bath. Additionally, Bath will pay monthly installments on NYSEG's annual charges for routine operation, maintenance, general expenses, and taxes (O&M).

This rate filing is made pursuant to Paragraph 2.3 of the Facilities Agreement. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve month period ending December 31, 1999. The facilities charge is levied on the cost of the tap facility constructed and owned by NYSEG to connect its 34.5 kV transmission lines to Bath's transmission system.

NYSEG requests an effective date of April 30, 2001.

Copies of the filing were served upon the Municipal Board of the Village of Bath and the Public Service Commission of the State of New York.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Maine Electric Power Company

[Docket Nos.ER01–1362–000]

Take notice that on March 1, 2001, Maine Electric Power Company (MEPCO) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment extending until July 1, 2005, the term of the Chester SVC Partnership Basic Operating Agreement (Agreement).

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Coral Energy Management, LLC

[Docket No. ER01–1363–000]

Take notice that on March 1, 2001, Coral Energy Management, LLC (Seller) petitioned the Commission for an order: (1) accepting Seller's proposed FERC Electric Tariff (Market-Based Rate Tariff); (2) granting waiver of certain requirements under Subparts B and C of Part 35 of the regulations, and (3) granting the blanket approvals normally accorded sellers permitted to sell at market-based rates.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Puget Sound Energy, Inc.

[Docket No. ER01–1364–000]

Take notice that on March 1, 2001, Puget Sound Energy, Inc. (PSE), tendered for filing a Service Agreement under PSE's Electric Tariff, First Revised Volume No. 8 with California Energy Resource Scheduling (CERS).

A copy of the filing was served upon CERS.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Northern Indiana Public Service Company

[Docket No. ER01–1365–000]

Take notice that on March 1, 2001, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Powerex Corporation (Powerex).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Powerex pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of March 1, 2001.

Copies of this filing have been sent to Powerex Corporation, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Northern Indiana Public Service Company

[Docket No. ER01–1366–000]

Take notice that on March 1, 2001, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Northern Indiana Public Service Company Energy Services (Energy Services).

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Energy Services pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission.

Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of March 1, 2001.

Copies of this filing have been sent to Northern Indiana Public Service Company Energy Services, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER01–1367–000]

Take notice that on March 1, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., tendered for filing a modified and redesignated Interconnection and Operating Agreement with Union Power Partners, L.P. (UPP), and an updated Generator Imbalance Agreement with UPP. The modified Interconnection and Operating Agreement reflects UPP's selection of specific Optional System Upgrades for the interconnection of its generating facility to Entergy Arkansas' transmission system.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER01–1368–000]

Take notice that on March 1, 2001, Public Service Company of New Mexico (PNM) submitted for filing an executed service agreement for Control Area Service with Tri-State Generation and Transmission Association, Inc. (Tri-State) under the terms of PNM's Open Access Transmission Tariff.

The agreement is dated February 28, 2001, and is to become effective February 1, 2001. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to Tri-State and to the New Mexico Public Regulation Commission.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Coyote Springs 2, LLC

[Docket No. ER01–1369–000]

Take notice that on March 1, 2001, Coyote Springs 2, LLC tendered for filing a Notice of Cancellation of Electric Rate Schedule FERC No. 1 to become effective March 2, 2001.

Comment date: March 22, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Entergy Services, Inc.

[Docket No. ER01–1376–000]

Take notice that on February 28, 2001, Entergy Services, Inc., on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., (collectively, the Entergy Operating Companies) tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement and a Short-Term Firm Point-To-Point Transmission Service Agreement both between Entergy Services, Inc., as agent for the Entergy Operating Companies, and Axia Energy, LP.

Comment date: March 21, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Old Dominion Electric Cooperative

[Docket No. ES01–22–000]

Take notice that on March 1, 2001, Old Dominion Electric Cooperative submitted an application pursuant to section 204 of the Federal Power Act requesting authorization to issue short-term debt, from time to time over a two-year period commencing on May 1, 2001, with no more than $501 million outstanding at any one time.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. ISO New England Inc.

[Docket No. ES01–24–000]

Take notice that on March 2, 2001, ISO New England Inc. (ISO–NE) submitted an application pursuant to section 204 of the Federal Power Act requesting authorization to issue long-term promissory notes under a term credit facility with no more than $43 million outstanding at any one time.

ISO–NE also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

18. ISO New England Inc.

[Docket No. ES01–25–000]

Take notice that on March 2, 2001, ISO New England Inc. (ISO–NE) submitted an application pursuant to section 204 of the Federal Power Act requesting authorization to issue long-term promissory notes under a revolving line of credit with no more than $15 million outstanding at any one time.

ISO–NE also requests a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: March 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 01–6126 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request for Extension of Time To Commence and Complete Project Construction and Soliciting Comments, Motions To Intervene, and Protests

March 7, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request for Extension of Time.

b. *Project No:* 8864–017.

c. *Date Filed:* February 6, 2001.

d. *Applicant:* Calligan Hydro, Inc.

e. *Name and Location of Project:* The Calligan Creek Hydroelectric Project is located on Calligan Creek in King County, Washington. The project does not occupy federal or tribal land.

f. *Filed Pursuant to:* Public Law 105–189 and sections 4.200(c) and 4.202(a) of the Commission's regulations.

g. *Applicant Contact:* Mr. Frank W. Frisk, Jr., Suite 125, 1054 31st Street, NW., Washington, DC, (202) 333–8433.

h. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839.

i. *Deadline for filing comments and or motions:* April 13, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Comments and protests may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instruction on the Commission's web site at *http://www.ferc.fed.us/efi/doorbell.htm*

Please include the project number (P–8864–017) on any comments or motions filed.

j. *Description of Proposal:* The Applicant requests an extension of time to May 13, 2003, to commence construction, as authorized by Public Law 103–189. In support of its request, the Applicant details several attempts to obtain power purchase agreements or other arrangements that could support project financing. The Applicant notes that it filed on January 30, 2001, an application for amendment of the project license (Project No. 8864–016) proposing to increase the capacity from 5.4 megawatts to 7.3 megawatts, at a cost likely to be lower per megawatt, which should make the project more attractive to potential power purchasers. The Applicant states further that it has obtained most preconstruction permits and approvals, and is confident that all remaining approvals can be obtained in time to meet the new construction deadline. The deadline for completion of construction would be extended to May 13, 2005.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426 or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–222 for assistance). A copy is also available for inspection and reproduction at the address in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or 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 ''PROTEST'', OR ''MOTION TO 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.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–6150 Filed 3–12–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

March 7, 2001.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 14, 2001 (15 Minutes after the Regular Commission Meeting).

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: AES Southland, Inc. and Williams, Energy Marketing & Trading Company.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400.

David P. Boergers,

Secretary.

[FR Doc. 01–6239 Filed 3–8–01; 4:11 pm]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

March 7, 2001.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: March 14, 2001; 10:00 a.m.

PLACE: Room 2C; 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda * Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400,

for a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all Public Documents may be examined in the reference and information center.

761st—Meeting March 14, 2001, Regular Meeting, (10:00 a.m.)

Consent Agenda—Markets, Tariffs and Rates—Electric

CAE–1.
Docket# ER01–179, 000, PJM Interconnection, L.L.C.
Others# ER01–179, 001, PJM Interconnection, L.L.C.
CAE–2.
Omitted
CAE–3.
Others# ER01–958, 000, Nevada Power Company
CAE–4.
Others# ER01–991, 000, California Independent System Operator Corporation
CAE–5.
Others# ER01–988, 000, PJM Iinterconnection, L.L.C.

CAE–6.

Docket# ER01–986, 000, Allegheny Energy Supply Company, LLC
Others# ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
CAE–7.
Docket# ER00–3513, 000, PJM Interconnection, L.L.C.
Others# EL99–86, 000, New York State Electric & Gas Corporation
EL00–13 000, Dunkirk Power, LLC, Huntley Power, LLC and Oswego Harbor, LLC
CAE–8.
Omitted
CAE–9.
Docket# ER01–320, 000, WPS Resources Operating Companies
CAE–10.
Docket# OA97–337, 000, Entergy Louisiana, Inc.
Others# OA97–337, 001, Entergy Louisiana, Inc.
OA97–342, 000, Entergy Louisiana, Inc.
OA97–342, 001, Entergy Louisiana, Inc.
OA97–346, 000, Entergy Gulf States, Inc.
OA97–346, 001, Entergy Gulf States, Inc.
OA97–348, 000, Entergy Mississippi, Inc.
OA97–348, 001, Entergy Mississippi, Inc.
CAE–11.
Docket# OA97–141, 000, Cleveland Electric Illuminating Company
Others# 0A97–141, 001, Cleveland Electric Illuminating Company
CAE–12.
Docket# ER01–836, 000, California Independent System Operator Corporation e
CAE–13.
Docket# ER99–1992, 000, Mid-Continent Area Power Pool
Other#sER99–1975, 000, Kansas City Power & Light Company
ER99–2017, 000, Utilicorp United, Inc.
ER99–2030, 000, Otter Tail Power Company
ER99–2034, 000, Midamerican Energy Company
ER99–2039, 000, Northwestern Public Service Company
ER99–2041, 000, St. Joseph Light & Power Company
ER99–2054, 000, Montana-Dakota Utilities Company
ER99–2169, 000, Minnesota Power, Inc.
CAE–14.
Docket# ER01–1057, 000, Automated Power Exchange, Inc.
CAE–15.
Docket# ER01–1058, 000, Automated Power Exchange, Inc.
CAE–16.
Docket# ER01–1147, 000, Exlon Generation Company, LLC, PECO Energy Company and Commonwealth Edison Company
Other#s ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
CAE–17.
Docket# ER01–1150, 000, Southern Company Services, Inc.
Other#s ER00–2998, 000, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
CAE–18.
Docket# RT01–74, 000, Carolina Power & Light Company, Duke Energy Corporation, South Carolina Electric & Gas Company and Gridsouth Transco, LLC
CAE–19.
Docket# RT01–77, 000, Southern Company Services, Inc.
CAE–20.
Docket# RT01–67, 000, Gridflorida LLC, Florida Power & Light Company, Florida Power Corporation and Tampa Electric Company
Other#s RTO1–67, 001, Gridflorida LLC, Florida Power & Light Company, Florida Power Corporation and Tampa Electric Company
CAE–21.
Docket# OA96–78, 005, Detroit Edison Company
CAE–22.
Docket# ER00–3211, 001, Citizens Communications Company
Other#s ER00–3211, 002, Citizens Communications Company
CAE–23.
Docket# ER90–349, 009, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
Other# ER90–406, 005, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
ER91–21, 005, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
CAE–24.
Docket# ER94–1188, 008, LG&E Power Marketing, Inc.
CAE–25.
Docket# ER00–803, 001, PECO Energy Power Company
Other#s ER00–803, 003, PECO Energy Power Company
CAE–26.
Docket# EC99–101, 003, XCEL Energy Operating Companies
Other#s ER99–3916, 003, XCEL Energy Operating Companies
CAE–27.
Docket# ER97–1523, 055, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
Other#s OA97–470, 051, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234, 049, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–1523, 056, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
OA97–470, 052, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
ER97–4234, 050, Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation,

Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and New York Power Pool
CAE–28.
Docket # EC01–22, 000, Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, Pennsylvania Power Company, American Transmission Systems, Inc. and their Public Utility Affiliates and Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company and their Public Utility Affiliates
CAE–29.
Docket # TX94–8, 000, Duquesne Light Company
Other #s TX94–10, 000, Duquesne Light Company
CAE–30.
Docket # TX96–2, 001, City of College Station, Texas
CAE–31.
Docket # ER91–505, 006, Pacific Gas and Electric Company
Other #s EL92–18, 003, Pacific Gas and Electric Company
CAE–32.
Docket # ER99–783, 001, Southwest Power Pool, Inc.
CAE–33.
Docket # ER99–2326, 001, Pacific Gas and Electric Company
Other #s EL99–68, 001, Pacific Gas and Electric Company
CAE–34.
Docket # ER99–4378, 001, Central Illinois Light Company
CAE–35.
Docket # ER00–1262, 001, Allegheny Energy Service Corporation
CAE–36.
Docket # ER00–1743, 001, Entergy Services, Inc.
CAE–37.
Docket # ER00–936, 002, Southern Energy Delta, L.L.C.
Other #s ER00–936, 003, Southern Energy Delta, L.L.C.
ER00–937, 002, Southern Energy Potrero, L.L.C.
ER00–937, 003, Southern Energy Potrero, L.L.C.
CAE–38.
Omitted
CAE–39.
Docket # RM00–7, 001, Revision of annual charges assessed to public utilities
CAE–40.
Omitted
CAE–41.
Docket # RM98–4, 001, Revised filing requirements under part 33 of The Commission's Regulations
CAE–42.
Docket # ER00–3583, 001, Arizona Independent Scheduling Administrator Association
Other #s ER01–173, 001, Arizona Public Service Company
ER01–208, 001, Tucson Electric Power Company
CAE–43.
Docket # ER00–3316, 001, American Transmission Company LLC
CAE–44.
Docket # ER99–28, 004, Sierra Pacific Power Company
Other #s ER99–945, 003, Sierra Pacific Power Company
EL99–38, 003, Sierra Pacific Power Company
CAE–45.
Docket # NJ01–1, 000, United States Department of Energy—Bonneville Power Administration
CAE–46.
Docket # EL01–28, 000, Dynegy Danskammer, L.L.C. and Dynegy Roseton, L.L.C.
CAE–47.
Docket # EL01–26, 000, City of Ketchikan, Alaska
Other #s EL01–32, 000, Copper Valley Electric Association, Inc., City of Petersburg, Alaska and City of Wrangell, Alaska
CAE–48.
Docket # EL01–22, 000, Idaho Power Company
CAE–49.
Docket # EL97–47, 000, Wisconsin Electric Power Company
Other#s EL97–47, 001, Wisconsin Electric Power Company
CAE–50.
Docket # EL00–99, 000, Maine Public Utilities Commmission, v. ISO New England, Inc.
Other #s EL00–100, 000, United Illuminating Company v. ISO New England, Inc.
EL00–112, 000, Bangor Hydro-Electric Company v. ISO New England, Inc.
CAE–51.
Omitted
CAE–52.
Docket # EL01–25, 000, Southern California Water Company, D/B/A and Bear Vallley Electric Service v. Southern California Edison Company
CAE–53.
Docket # EL00–111, 000, Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California v. California Independent System Operator Corporation
CAE–54.
Docket# QF86–971, 004, San Joaquin Cogen Limited
Other#s EL00–29, 000, San Joaquin Cogen Limited
ER00–1044, 000, San Joaquin Cogen Limited

Consent Agenda—Markets, Tariffs and Rates—Gas

CAG–1.
Docket# RP01–229, 000, Trunkline LNG Company
CAG–2.
Docket# CP85–221, 108, Frontier Gas Storage Company
Other#s CP85–221, 109, Frontier Gas Storage Company
CAG–3.
Docket# RP96–320, 029, Gulf South Pipeline Company, L.P. (Formerly Koch Gateway Pipeline Company)
CAG–4.
Docket# RP00–374, 000, Columbia Gas Transmission Corporation
CAG–5.
Docket# RP97–406, 027, Dominion Transmission, Inc.
Other#s RP01–74, 002, Dominion Transmission, Inc.
CAG–6.
Docket# RP98–145, 003, Natural Gas Pipeline Company of America
Other#s RP98–145, 004, Natural Gas Pipeline Company of America
CAG–7.
Docket# RP00–626, 001, Transwestern Pipeline Company
CAG–8.
Docket# RP00–300, 001, Tennessee Gas Pipeline Company
CAG–9.
Docket# RP00–226, 002, Mississippi Canyon Gas Pipeline, LLC
Other#s RP00–226, 003, Mississippi Canyon Gas Pipeline, LLC
CAG–10.
Docket# RP00–512, 001, Algonquin LNG, Inc.
CAG–11.
Docket# RP00–515, 001, Maritimes & Northeast Pipeline, L.C.
CAG–12.
Docket# RP97–431, 010, Natural Gas Pipeline Company of America
Other#s RP97–431, 011, Natural Gas Pipeline Company of America
CAG–13.
Docket# RP00–604, 001, Columiba Gas Transmission Corporation
Other#s RP00–604, 002, Columbia Gas Transmission Corporation
RP00–605, 001, Columbia Gulf Transmission Company
CAG–14.
Docket# RP00–264, 002, Northern Natural Gas Company
CAG–15.
Docket# RP00–571, 001, Reliant Energy Gas Transmission Company
Other#s RP00–571, 002, Reliant Energy Gas Transmission Company
CAG–16.
Docket# MG01–12, 000, Alliance Pipeline, L.P.
CAG–17.
Docket# MG01–9, 000, Trunkline Gas Company
CAG–18.
Docket# MG01–6, 000, Panhandle Eastern Pipe Line Company
CAG–19.
Docket# MG01–8, 000, Southwest Gas Storage Company
CAG–20.
Docket# MG98–8, 001, Tuscarora Gas Transmission Company
Other#s MG98–13, 000, Tuscarora Gas Transmission Company
CAG–21.
Docket# MG01–10, 000, Trunkline LNG Company
CAG–22. Omitted
CAG–23.
Docket# PR99–4, 003, Consumers Energy Company
CAG–24. Omitted

Consent Agenda—Miscellaneous

CAM–1.
Docket# RM01–5, 000, Electronic Tariff Filings

Consent Agenda—Energy Projects—Hydro

CAH–1.
Docket# P–1759, 042, Wisconsin Electric Power Company
Other#s P–2074, 008, Wisconsin Electric Power Company
P–2072, 009, Wisconsin Electric Power Company
P–11830, 001, Wisconsin Electric Power Company
P–2073, 010, Wisconsin Electric Power Company
P–11831, 001, Wisconsin Electric Power Company
P–2131, 023, Wisconsin Electric Power Company
P–1980, 012, Wisconsin Electric Power Company

CAH–2.
Docket# P–710, 002, Wisconsin Power and Light Company and Wolf River Hydro Limited Partnership
Other#s P–710, 003, Wisconsin Power and Light Company and Wolf River Hydro Limited Partnership
P–710, 013, Wisconsin Power and Light Company and Wolf River Hydro Limited Partnership

CAH–3.
Docket# P–11634, 001, Continental Lands, Inc.

CAH–4.
Docket# P–1933, 027, Southern California Edison Company

CAH–5.
Docket# P–2556, 033, FPL Energy Maine Hydro, LLC
Other#s P–2557, 018, FPL Energy Maine Hydro, LLC
P–2559, 017, FPL Energy Maine Hydro, LLC

CAH–6.
Docket# DI99–4, 001, H. Bruce Cox
Other#s P–6559, 016, H. Bruce Cox

CAH–7.
Docket# P–2230, 029, City and Borough of Sitka, Alaska

CAH–8.
Docket# P–6879, 024, Southeastern Hydro-Power, Inc.

CAH–9.
Docket# P–9974, 040, Rough and Ready Hydro Company
Other#s P–10058, 007, Elaine Hitchcock

CAH–10.
Docket# P–2035, 006, City and County of Denver, Colorado

Consent Agenda—Energy Projects—Certificates

CAC–1.
Docket# CP00–233, 000, Southern Natural Gas Company
Other#s CP00–233, 001, Southern Natural Gas Company

CAC–2.
Omitted

CAC–3.
Docket# CP99–284, 000, Gulf South Pipeline Company, LP

CAC–4.
Omitted

CAC–5.
Docket# CP00–36, 000, Guardian Pipeline, L.L.C.
Other#s CP00–36, 001, Guardian Pipeline, L.L.C.
CP00–37, 000, Guardian Pipeline, L.L.C.
CP00–37, 001, Guardian Pipeline, L.L.C.
CP00–38, 000, Guardian Pipeline, L.L.C.
CP00–38, 001, Guardian Pipeline, L.L.C.

CAC–6.
Docket# CP98–229, 001, Northern Natural Gas Company

CAC–7.
Docket# IN01–2, 001, Williams Gas Pipelines Central, Inc.

Energy Projects—Hydro Agenda

H–1.
Reserved

Energy Projects—Certificates Agenda

C–1.
Reserved

Markets, Tariffs and Rates—Electric Agenda

E–1.
Docket# EL01–47, 000, Removing obstacles to increased electric generation and natural gas supply in the western United States—the Commission will consider what actions it should take to promote increased energy supply and demand-side management in the western United States.

Markets, Tariffs and Rates—Gas Agenda

G–1.
Reserved

David P. Boergers,

Secretary.

[FR Doc. 01–6240 Filed 3–8–01; 4:39 pm]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6951–7]

Clean Air Act Operating Permit Program; Petition for Objection to Proposed State Operating Permit for Borden Chemical, Inc. Formaldehyde Plant Geismar, Ascension Parish, Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to State operating permit.

SUMMARY: This notice announces that the EPA Administrator has dismissed portions of a petition as moot and denied the remainder of a petition to object to a State operating permit issued by the Louisiana Department of Environmental Quality for Borden Chemical, Inc.'s formaldehyde plant in Geismar, Louisiana. Pursuant to Section 505(b)(2) of the Clean Air Act (Act), the Petitioner may seek judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of this decision under Section 307 of the Act.

ADDRESSES: You may review copies of the final order, the petition, and other supporting information at EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. The final order is also available electronically at the following address: http://www.epa.gov/ region07/ programs/artd/air/title5/petitiondb/ borden__response1999.pdf.

FOR FURTHER INFORMATION CONTACT: Jole Luehrs, Chief, Air Permits Section, Multimedia Planning and Permitting Division, U.S. EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7250, or e-mail at luehrs.jole@epa.gov.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Ms. Marylee Orr, Executive Director of the Louisiana Environmental Action Network (Petitioner) submitted a petition to the Administrator on August 24, 1999, seeking EPA's objection to the Title V operating permit to be issued for Borden Chemical. Inc.'s formaldehyde plant in Geismar, Louisiana. The petition objects to issuance of the permit on nine grounds:

(1) Violation of public notice and comment provisions; (2) emission reduction credits proposed to offset its emissions are not valid; (3) the facility will hinder reasonable further progress in achieving the ozone standard for the Baton Rouge non-attainment area; (4) environmental impacts of facility significantly outweigh the social and economic benefits of the facility; (5) Borden failed to submit a complete application; (6) Borden's environmental assessment of the site was inadequate; (7) no risk management plan on file; (8) failure to meet Maximum Achievable Control Technology standards; and (9) title VI civil rights complaint. The Order expresses the Administrator's agreement with Petitioner on issues 2 and 3, regarding the validity of emission reduction credits used as offsets, and re-emphasizes the Clean Air Act

requirement that credits must be ''surplus'' of Federal or State requirements at the time they are generated as well as when they are used. However, the Order does not grant relief on those points because the permit was recently modified to no longer rely on such offsets, thereby mooting the issue.

On December 22, 2000, the Administrator issued an order dismissing items 2 and 3 of the petition as moot and denying the remainder of the petition. The order explains the reasons for the Administrator's decision.

Dated: January 23, 2001.

Gregg A. Cooke,

Regional Administrator, Region 6.

[FR Doc. 01–6183 Filed 3–12–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6953–2]

Reopening of Comment Period for the Preliminary Administrative Determination Document on the Question of Whether Ferric Ferrocyanide Is One of the ''Cyanides'' Within the Meaning of the List of Toxic Pollutants Under the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reopening of comment period.

SUMMARY: The comment period for the preliminary administrative determination document on the question of whether ferric ferrocyanide is one of the ''cyanides'' within the meaning of the list of toxic pollutants under the Clean Water Act was scheduled to end on March 12, 2001. The comment period will now end 90 days later on June 10, 2001. The notice announcing document availability was published in the **Federal Register** on January 25, 2001 (66 FR 7759).

DATES: Comments will be accepted through June 10, 2001.

ADDRESSES: Mail written comments to: FFC Administrative Determination, USEPA, Engineering and Analysis Division (4303), Office of Science and Technology, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For further information and to request a copy of the administrative determination, contact Dr. Maria Gomez-Taylor, USEPA, Engineering and Analysis Division (4303), Office of Science and Technology, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460; or call (202) 260–1639; or fax (202) 260-7185; or e-mail gomez-taylor.maria@epa.gov.

SUPPLEMENTARY INFORMATION: On January 25, 2001, EPA published in the **Federal Register** (66 FR 7759) a notice announcing availability of the preliminary administrative determination document and a public comment period that was scheduled to end on March 12, 2001. EPA received requests for additional time to provide comments. This action provides an additional 90 days, for a total of four-and-a-half months, for public comments.

Dated: March 7, 2001.

Diane C. Regas,

Acting Assistant Administrator for Water.

[FR Doc. 01–6184 Filed 3–12–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:00 a.m. on Tuesday, March 13, 2001, the Federal Deposit Insurance Corporation's Board of directors will meet in closed session, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider matters relating to the Corporation's corporate, supervisory and resolution activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: March 8, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–6293 Filed 3–9–01; 9:24 am]

BILLING CODE 6714–01–M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—02/05/2001			
20011310	Flextronics International Ltd.	Greg Ronan	Wave Optics, Inc.
20011326	Heartland Industrial Partners, L.P.	Collins & Aikman Corporation	Collins & Aikman Corporation.
20011328	PMD Group Holdings Inc.	The B.F. Goodrich Company	BF Goodrich Chemical Belgie BVBA. BF Goodrich China Inc. BF Goodrich, FCC, Inc. US. Goodrich Holding Corporation. The B.F. Goodrich Company.
20011336	Dr. Terrence H. Matthews	Mitel Corporation	Mitel Knowledge Corporation, Mitel Telecom Limited. Mitel Networks Corporation.

Trans #	Acquiring	Acquired	Entities
			Mitel Research Park Corporation.
Transactions Granted Early Termination—02/06/2001			
20004859	Blue Cross Blue Shield of Michigan	Ascension Health	SelectCare, Inc.
20004860	Henry Ford Health System	Ascension Health	SelectCare, Inc.
20010439	Eastman Kodak Company	Bell & Howell Company	Bell & Howell Company.
20011342	Citigroup Inc.	Delco Remy International, Inc.	Delco Remy International, Inc.
20011365	Olivetti, S.p.A.	NetCreations, Inc.	NetCreations, Inc.
Transactions Granted Early Termination—02/07/2001			
20011271	Providence Media Partners L.P.	VoiceStream Wireless Corporation	VoiceStream Wireless Corporation.
20011272	Providence Equity Partners III L.P.	VoiceStream Wireless Corporation	VoiceStream Wireless Corporation.
20011283	VoiceStream Wireless Corporation	VoiceStream Wireless Corporation	Cook Inlet GSM Control LLC/Cook Inlet PV SS PCS Partners, LP.
20011287	Vestar Capital Partners, IV, L.P.	Michael Foods, Inc.	Michael Foods, Inc.
20011312	LT Participations S.A.	Tod Johnson	The NPD Group, Inc.
20011316	Oak Hill Capital Partners, L.P.	MeriStar Hotels & Resorts, Inc.	MeriStar Hotels & Resorts, Inc.
20011343	APW, Ltd.	William F. Connell	Connell Limited Partnership.
20011344	William F. Connell	APW, Ltd.	APW, Ltd.
20011348	b2bstores.com, Inc.	IVAX Corporation	IVAX Diagnostics, Inc.
20011353	Berkshire Hathaway Inc.	American Express Company	American Express Company.
20011354	Westmoreland Coal Company	Montana Power Company	Basin Resources, Inc. Horizon Coal Services, Inc. North Central Energy Company. Northwestern Resources Co. Western Energy Company.
20011355	Allegheny Energy, Inc.	Merrill Lynch & Co., Inc.	Merrill Lynch Capital Services, Inc.
20011356	Sysco Corporation	Guest Supply, Inc.	Guest Supply, Inc.
20011357	Svenska Cellulosa Aktiebolaget SCA (publ).	Tuscarora Incorporated	Tuscarora Incorporated.
20011358	Madison Dearborn Capital Partners III, L.P..	Magellan Health Services, Inc.	National Mentor, Inc.
20011361	NetIQ Corporation	WebTrends Corporation	WebTrends Corporation.
20011362	W. Glen Boyd	NetIQ Corporation	NetIQ Corporation.
20011363	Elijahu Shapira	NetIQ Corporation	NetIQ Corporation.
20011368	Warburg, Pincus Ventures, L.P.	Newfield Exploration Company	Newfield Exploration Company.
20011370	SBC Communications Inc.	SBC Communications Inc.	BellSouth Wireless Data, L.P.
Transactions Granted Early Termination—02/08/2001			
20001571	Consolidated Edison, Inc.	Northeast Utilities	Northeast Utilities.
20011364	Prometheus Laboratories, Inc.	Counsel Corporation	Counsel Corporation.
Transactions Granted Early Termination—02/09/2001			
20011351	Bayer AG	CuraGen Corporation	CuraGen Corporation.
Transactions Granted Early Termination—02/12/2001			
20011366	Nippon Paper Industries Co., Ltd.	Daishowa Paper Manufacturing Co., Ltd..	Daishowa Paper Manufacturing Co., Ltd.
20011367	Daishowa Paper Manufacturing Co., Ltd..	Nippon Paper Industries Co., Ltd.	Nippon Paper Industries Co., Ltd.
20011371	STMicroelectronics N.V.	Ravisent Technologies, Inc.	Ravisent Technologies, Inc.
Transactions Granted Early Termination—02/13/2001			
20004261	DS Uniphase Corporation	SDL, Inc.	SDL, Inc.
20011329	Credit Suisse Group	PMD Group Holdings, Inc.	PMD Group Holdings, Inc.
20011330	Deutsche Bank AG	PMD Group Holdings, Inc.	PMD Group Holdings, Inc.
20011345	Thomas J. Barrack, Jr.	Kersaf Investment Ltd.	New Pier Operating Company, Inc. Resorts International Hotel, Inc.
20011369	WCW Acquisition, Inc.	AOL Time Warner, Inc.	World Championship Wrestling, Inc.
20011374	St. John's University, New York	Insurance Society of New York, Incorporation.	Insurance Society of New York, Incorporation.
20011376	Modine Manufacturing Company	Thermacore International, Inc.	Termacore International, Inc.
20011377	Hexagon AB	Brown & Sharpe Manufacturing Company.	Brown & Sharpe Manufacturing Company BSIS, Inc.
20011381	The Basketball Club of Seattle, LLC	Barry A. Ackerley	SSI, Inc., T.C. Aviation, Inc. The Ackerley Group, Inc., Ackerley Media Group, Inc.

Trans #	Acquiring	Acquired	Entities
20011383	Advanced Digital Information Corporation.	Pathlight Technology, Inc.	Pathlight Technology, Inc.
20011386	Catholic Health East	Catholic Health Initiatives	Catholic Health Initiatives.
20011388	Dover Corporation	Cortec Group Fund II, L.P.	Switchcraft Holdings, Inc.
20011390	Proxim, Inc.	Netopia, Inc.	Netopia, Inc.
20011391	Dentsply International Inc.	AstraZeneca pic	AstraZeneca AB
20011393	United Parcel Service, Inc.	First International Bancorp, Inc.	First International Bancorp, Inc.
20011397	Argosy Gaming Company	Argosy Gaming Company	Indiana Gaming Company, L.P.
20011400	The May Department Stores Company, a Delaware corporation.	Saks Incorporated, a Tennessee corporation.	Saks Incorporated, a Tennessee corporation.
20011403	Heartland Industrial Partners, L.P.	Heartland Industrial Partners, L.P.	Metaldyne Corporation.
20011413	Alton Ochsner Medical Foundation	Ochsner Clinic L.L.C.	Ochsner Clinic, L.L.C.
20011414	Harza Engineering Company, Inc.	Montgomery Watson, Inc.	Montgomery Watson, Inc.
20011416	KKR 1996 Fund L.P.	NewSouth Holdings, Inc.	NewSouth Holdings, Inc.
20011422	The Guardian Life Insurance Company of America.	Berkshire Life Insurance Company	Berkshire Life Insurance Company.
20011424	CORNELLA Verwaltungsgesellschaft mbH.	Aventis	Hoechst NewCo II.
20011425	AT&T Corp.	Cox Enterprises, Inc.	Cox@Home, Inc.
20011428	Constellation Brands, Inc.	Sebastiani Vineyards, Inc.	Sebastiani Vineyards, Inc.
20011434	Solectron Corporation	Centennial Technologies, Inc.	Centennial Technologies, Inc.
20011435	Pediatrix Medical Group, Inc.	Magella Healthcare Corporation	Megella Healthcare Corporation.
20011438	The Hartford Financial Services Group, Inc..	Fortis (B)	Fortis Advisers, Inc. Fortis, Inc.
20011439	The Hartford Financial Services Group, Inc..	Fortis (NL) N.V.	Fortis Advisers, Inc. Fortis, Inc.
20011440	Hub International Limited	Kaye Group Inc.	Kaye Group Inc.
200114411	Quadrant Holding	DSM N.V.	DSM Engineering Plastic Products Holding Company, Inc.
20011490	Andrew J. McKelvey	James W. Goldman	JWG Associates Inc.

Transactions Granted Early Termination—02/14/2001

20011320	Microsoft Corporation	Great Plains Software, Inc.	Great Plains Software, Inc.
20011405	General Electric Company	Rollins Truck Leasing Company	Rolins Truck Leasing Company
20011442	Mitsui Marine and Fire Insurance Co., Ltd..	The Sumitomo Marine and Fire Insurance Co., Ltd.	The Sumitomo Marine and Fire Insurance Co., Ltd.
20011452	Radio One, Inc.	Blue Chip Broadcasting Inc.	Blue Chip Broadcasting, Inc.
20011458	El Paso Energy Partners	El Paso Energy Corporation	El Paso Energy Corporation
20011459	WPS Resources Corporation	Sierra Pacific Resources	Sierra Pacific Power Company.
20011465	General Electric Company	Interpool, Inc.	Interpool, Inc.
20011467	The Goldman Sachs Group, Inc.	Benjamin Jacobson & Sons, LLC	Benjamin Jacobson & Sons, LLC.
20011468	AT&T Corp.	Brian L. Roberts	Comcast PC Investments, Inc.
20011471	UnitedGlobalCom, Inc.	AT&T Corp.	Liberty International DLA, Inc.
20011482	The Procter & Gamble Company	Project EMM, Inc.	Project EMM, Inc.
20011487	Carlyle Partners III, L.P.	Grand Vehicle Works Holdings, Inc.	Grand Vehicle Works Holdings, Inc.
20011495	Quanta Services, Inc.	John DiLeo, Jr.	Hylan DataCom & Electrical, Inc.
20011496	Quanta Services, Inc.	Michael Paterno	Hylan Electrical Contracting Inc. Trinity Cable & Lighting Inc., Gibaltar Construction Corp. Trinity Communication Corps.

Transactions Granted Early Termination—02/16/2001

20011298	Halliburton Company	Petroleum Geo-Services, ASA	Petroleum Geo-Services (U.S.), Inc. PGS Data Management, Inc. PGS Tigress (UK), Ltd. PGS Data Management, Inc.
20011306	United Parcel Service, Inc.	Fritz Companies, Inc.	Fritz Companies, Inc.
20011350	Verizon Communications Inc.	Price Communications Corporation	Price Communications Wireless, Inc.
20011406	Constellation Energy Group, Inc.	Niagara Mohawk Holdings, Inc.	Niagara Mohawk Holdings, Inc.
20011437	The AES Corporation	Sierra Pacific Resources	Nevada Power Corporation.
20011443	Nitsuko Corporation	NEC Corporation	NEC America, Inc.
20011444	NEC Corporation	Nitsuko Corporation	Nitsuko America Corporation.
20011453	Health Care Service Corporation	The Regence Group	The Regence Group.
20011457	Aristocrat Leisure Limited	Casino Data Systems	Casino Data Systems.
20011460	Nippon Telegraph and Telephone Corporation.	AT&T Corp.	AT&T Wireless Services, Inc.
20011481	Nestle' S.A.	Interstate Bakeries Corporation	Interstate Bakeries Corporation.
20011485	Constellation Energy Group, Inc.	RGS Energy Group, Inc.	RGS Energy Group, Inc.
20011486	Constellation Energy Group, Inc.	Energy East Corporation	New York State Electric & Gas Corporation.

Trans #	Acquiring	Acquired	Entities
20011493	Constellation Energy Group, Inc.	CH Energy Group, Inc.	Central Hudson Gas & Electric Corporation.
20011500	ALZA Corporation	Merck & Co., Inc.	Merck & Co., Inc.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Parcellena P. Fielding, contact representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–6137 Filed 3–12–01; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[File No. 992 3192]

Enerjet Corporation; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before April 6, 2001.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: John Rothchild, FTC/S–4302, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–3307.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 7, 2001), on the World Wide Web, at *http://www.ftc.gov/os/2001/03/index.htm.* A paper copy can be obtained from the FTC Public Reference Room, Room H–130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement for entry of a consent order from Enerjet Corporation (''Enerjet''). The agreement would settle a complaint by the Federal Trade Commission that Enerjet violated (1) the Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'' or ''Rule''), 16 CFR part 305, and (2) the Energy Policy and Conservation Act (''EPCA''), 42 U.S.C. 6201 *et seq.*

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns Enerjet's compliance with regulatory requirements relating to certain boilers that it manufactures. The administrative complaint alleges that Enerjet violated the Appliance Labeling Rule in several respects. First, the complaint alleges that Enerjet knowingly distributed certain oil-fired boilers that were not marked with labels displaying the information that the Rule requires. In particular, the complaint alleges, the labels Enerjet used did not display the name of the manufacturer, the annual fuel utilization efficiency rating of the boiler, the range of annual fuel utilization efficiency ratings for comparable products, an indication of where the labeled product falls within this range, and certain prescribed generic statements. Second, the complaint alleges that during 1997 Enerjet knowingly distributed boilers without furnishing a fact sheet concerning the boilers, and without supplying the required information in an approved industry directory. Third, the complaint alleges that Enerjet failed to submit a 1997 annual report concerning its boilers.

The complaint also alleges that Enerjet violated the EPCA by distributing brochures that do not accurately disclose the annual fuel utilization efficiency ratings of its boilers in accordance with the test procedure prescribed by the Secretary of the Department of Energy, but rather overstate the energy efficiency of the boilers.

The proposed consent order requires Enerjet to pay $10,000 civil penalty for violating the Rule. It also prohibits Enerjet from making any representation about the energy use or efficiency of any product it manufactures that is subject to the Rule, or the cost of energy consumed by such product, unless the product has been tested in accordance with a test procedure prescribed by the Secretary of Energy and the representation fairly discloses the results of such testing.

The remainder of the proposed consent order contains provisions regarding recordkeeping, distribution of the order, notification of changes in corporate status, filing of a compliance report, and termination of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement or the proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 01–6136 Filed 3–12–01; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities: Proposed Submission to the Office of Management and Budget (OMB) for Clearance; Comment Request; Extension of a Currently Approved Information Collection

AGENCY: Administration on Aging, HHS. The Administration on Aging (AoA), Department of Health and Human Services, proposes to submit to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511):

Title of Information Collection: State Annual Long-Term Care Ombudsman Report.

Type of Request: Extension of use of the report, with no revision.

Use: Extension of reporting format for use by states in reporting on activities of their Long-Term Care Ombudsman Programs as required under section 712 of the Older Americans Act, as amended.

Frequency: Annually.

Respondents: State Agencies on Aging.

Estimated Number of Responses: 52.

Total Estimated Burden Hours: 7,235.

Additional Information or Comments: The Administration on Aging plans to submit to the Office of Management and Budget, for approval, an extension, with no revisions, of a reporting form and instructions for the State Annual Long-Term-Care Ombudsman Report, pursuant to requirements in section 712(b) and (h) of the Older Americans Act. The form is currently being evaluated for possible revision to reflect additional programmatic reporting needs. However, this should not affect the PRA clearance process. Written comments and recommendations for the proposed information collection should be sent within 60 days of the publication of this notice directly to the following address: Office of Elder Rights Protection, Administration on Aging, Attention: Sue Wheaton, 330 Independence Avenue, SW., Washington, DC 20201.

Dated: March 7, 2001.

Norman L. Thompson,

Acting Principal Deputy Assistant Secretary for Aging.

[FR Doc. 01–6174 Filed 3–12–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01036]

Grants for Education Programs in Occupational Safety and Health: Occupational Injury Prevention Research Training Programs; Notice of Availability of Funds for Fiscal Year 2001

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for institutional training grants in occupational safety and health. This program addresses the ''Healthy People 2010'' focus area of Occupational Safety and Health. The 2000 Institute of Medicine report titled ''Safe Work in the 21st Century'' recommended that NIOSH establish a new training initiative focused on the prevention of occupational injuries. The purpose of this program is to train occupational injury prevention researchers and educators. For the purposes of this announcement, occupational injury prevention is defined to encompass the fields of: Occupational safety engineering and science; and occupational injury epidemiology. See Section D, ''Program Requirements'', Item 6 for a further description of the proposed field of study.

B. Eligible Applicants

Applications for institutional training grants may be submitted by public and private nonprofit and for-profit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit and for-profit organizations, State and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, federally recognized Indian tribal governments, Indian tribes, Indian tribal organizations, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau. Applicants must have: (1) Demonstrated competency in the occupational safety and health field; and (2) an established graduate-level, academic degree program in the occupational safety and health field.

For existing NIOSH Education and Research Centers (ERC) or Training Project Grants (TPG) that request supplemental funding, it is imperative to include the current CDC/NIOSH Training Grant number, so the application may be processed as a supplement to the existing grant.

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 $1,000,000 is expected to be available in FY 2001 to fund eight to ten awards. It is expected that the average award will be $ 100,000, ranging from $50,000 to $175,000. It is expected that the awards will begin on July 1, 2001, and will be made for a 12-month budget period within a maximum project period of up to five years. Funding estimates may change.

For existing ERC and TPG grantees that apply under this announcement and also have existing NIOSH-funded occupational safety and/or occupational injury epidemiology academic programs, a clear description and justification must be provided to explain how the proposed program differs from, or substantially enhances, the existing program. If the application is approved and recommended for funding, in some instances it may be necessary to replace the existing program funding with funding available under this announcement.

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.

D. Program Requirements

The following are intended to serve as applicant requirements:

1. Grantees shall establish research training programs that encompass at least one of the following two components: (a) Occupational safety engineering and science; and (b) occupational injury epidemiology. Applications that propose programs encompassing both components are encouraged. Programs may be at the Masters and Doctoral levels. Doctoral programs will be given higher priority to address the need for researchers to conduct research and provide academic faculty in the occupational injury

prevention field. Curricula and research training plans must be structured and clearly identified for each level of training as well as the number of full-time and part-time students proposed. Programs must have a minimum of three full-time or full-time equivalent trainees. At least 50 per cent of the proposed budget must be allocated to the support of allowable trainee expenses. It is expected that the percentage of the proposed budget allocated to trainee expenses will increase during each year of the project period.

2. Applicants shall address the need for preparing occupational injury prevention researchers in this field. Justification should be provided in support of the degree levels proposed for financial assistance.

3. Programs should train occupational injury prevention researchers on the basis of the public health model as applied to occupational injury prevention:

a. Identify and prioritize problems.

b. Quantify and prioritize risk factors.

c. Identify existing or develop new strategies to prevent injuries.

d. Implement and evaluate the most effective injury control measures.

e. Monitor the results of intervention efforts.

The curriculum should include, as a minimum, in-depth training in the following topic areas:

(1) Within occupational safety engineering and science programs—computer applications, data systems/injury surveillance, engineering controls, injury epidemiology, ergonomics/biomechanics, exposure assessment, personal protective equipment, research/experimental design, statistics, and system safety.

(2) Within occupational injury epidemiology programs—injury surveillance, survey methods, exposure assessment, research/experimental design, injury control, intervention evaluation, occupational safety and ergonomics.

4. A plan should be provided to incorporate research experience (as principal or co-investigators) in original occupational injury prevention research for students at all degree levels. The plan should also document ongoing funded research and faculty publications and how the applicant intends to expand and strengthen existing research efforts. The plan should also include items such as strategies for obtaining student and faculty funding.

5. A plan shall be provided outlining internal collaborative relationships between Departments, addressing institutional roles, goals and objectives, proposed curriculum, faculty and policies and administrative measures to establish appropriate coordination. Programs are also strongly encouraged to incorporate collaborative relationships with external agencies and institutions that can serve as resources for the program, to coordinate research with public and private groups, and to provide sources of data for research. Some examples of potential collaborating groups include the following:

a. The disciplines of engineering, epidemiology, safety, and the medical, clinical and social sciences.

b. Industry, labor, and the public sector, including public and private worker compensation programs.

6. The Program Director shall be a full-time faculty member and have education and experience in training occupational injury prevention researchers. The Program Director should have currently funded research in occupational safety and health and should be responsible for the coordination of the program.

7. Key faculty and research advisors should be full-time faculty with documented expertise and education in their appropriate fields. Qualifications should include having funded research in the field of occupational safety and health. Research advisors should have recent research experience in occupational injury prevention.

8. The applicant shall include a plan for student recruitment, including entrance requirements.

9. The applicant shall include a plan for evaluation of the program, including placement of graduates, tracking of graduates, and contributions that graduates are making in the occupational injury prevention field.

10. An Advisory Committee shall be established representing stakeholders for occupational injury prevention, including, labor, industry, and government.

E. Application Content

Applications will be evaluated on the basis of the Program Requirements, Other Requirements, and Evaluation Criteria sections listed, so it is important to follow them in laying out the program plan. The narrative should be no more than 15 pages. Prepare the application single-sided and single-spaced, staying within the margin limitations indicated on the form and continuation pages. The print must be clear and legible. Use standard size, black letters that can be clearly copied. Do not use photo reduction. Prepare all graphs, diagrams, tables, and charts in black ink. The application must contain only material that can be photocopied. Do not include course catalogue and brochures. When additional space is needed to complete any of the items, use plain white paper (8 ½ × 11 inches), leave ½ inch margin on each side, identify each item by its title, and type the name of the program director and the grant number in the upper right corner of each page. All pages, including Appendices should be numbered consecutively at least ½ inch from the bottom edge.

The applicant shall provide documentation of an established graduate-level academic degree program in the occupational safety and health field at the applicant institution.

Note: Please consult the detailed Recommended Outline for Preparation of Competing New/Supplemental Training Grant Applications for Occupational Injury Prevention Research Training Programs provided in the application kit. (CDC 2.145 A).

F. Submission and Deadline

Application

Submit the original and three copies of CDC 2.145 A (OMB Number 0920–00261). Forms are in the application kit. On or before May 1, 2001, submit the application to the Grants Management Specialist identified in section J of this announcement, ''Where to Obtain Additional Information''. Please be reminded that for existing NIOSH ERCs or TPGs that request supplemental funding, it is imperative to include the present CDC/NIOSH Training Grant number, so it may be processed as a supplement.

Deadline: Applications should 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 evaluated individually against the following criteria by an independent review group appointed by CDC:

1. Evidence of a plan to satisfy the need for training in the area outlined by

the application, including projected enrollment, recruitment and job opportunities. Indicators of need may include measures utilized by the Program such as previous record of training and placement of graduates. Indicate the potential contribution of the project toward meeting the need for this specialized training.

2. Extent to which arrangements for day-to-day management, allocation of funds and cooperative arrangements are designed to effectively achieve the program requirements.

3. Evidence of a plan describing the academic and research training the program proposes. This should include goals, elements of the program, research faculty and amount of effort, support faculty, facilities and equipment available and needed, and methods for implementing and evaluating the program.

4. Extent to which curriculum content and design includes formalized training objectives, minimal course content to achieve degree, course descriptions, course sequence, additional related courses open to students, time devoted to lecture, and clinical and research experience addressing the relationship with didactic programs in the educational process.

5. The extent to which the program effort is capable of supporting the number and type of students proposed.

6. Extent to which the program has initiated collaborative relationships with external agencies and institutions to expand and strengthen its research capabilities by providing student and faculty research opportunities.

7. Evidence of previous record of training in occupational injury prevention, including placement of graduates and employment history.

8. The extent to which the applicant documents methods in use or proposed methods for evaluating the effectiveness of the training, including the use of feedback mechanisms from graduates and employers, placement of graduates in research positions, research accomplishments of graduates and reports from consultations and cooperative activities with other universities, professional associations, and other outside agencies.

9. Competence, experience and training of the Program Director, faculty and advisors in relation to the type and scope of research training involved.

10. Degree of institutional commitment to Program goals. An example of institutional commitment to the long-term stability of academic programs is the commitment of tenured or tenure-track faculty positions to each participating academic program.

11. Adequacy of the academic and physical environment in which the training will be conducted, including access to appropriate occupational injury prevention research resources.

12. The extent to which the budget is reasonable, adequately justified, and consistent with the intended use of the grant funds.

13. Evidence of a plan for establishment of an Advisory Committee, including meeting times, roles and responsibilities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Progress reports (annual and may be incorporated as component of non-competing continuation applications);

2. Financial status report, no more than 90 days after the end of the budget period; and

3. Final financial status report and progress report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in section J of this announcement, ''Where to Obtain Additional Information''.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions

Data collection initiated under this training grant program has been approved by the Office of Management and Budget under Number 0920–0261. ''Training Grants, Application and Regulations—42 CFR Part 86,'' Expiration Date 01/31/2004.

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 21(a) of the Occupational Safety and Health Act [29 U.S.C. 670 (a)]. Regulations applicable to this Program are in 42 CFR 86, ''Grants for Education Programs in Occupational Safety and Health''. The Catalog of Federal Domestic Assistance number is 93.263.

J. Where To Obtain Additional Information

Please refer to Program Announcement 01036 and specify ERC or TPG when you request information. 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. You may also obtain Program Announcement 01036 from the CDC home page address on the Internet, *http://www.cdc.gov*. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sonia Rowell, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 01036, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2724, Email address: svp1@cdc.gov

For program technical assistance, contact: John T. Talty, Principal Engineer, Office of Extramural Programs, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 4676 Columbia Parkway, Mailstop C–7, Cincinnati, OH 45226–1998, Telephone (513) 533–8241, Email address: jtt2@cdc.gov

Dated: March 6, 2001.

Lawrence J. Fine,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–6125 Filed 3–12–01; 8:45 am]

BILLING CODE 4163—19—P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee and subcommittee meetings.

Name: Advisory Committee for Injury Prevention and Control (ACIPC).

Times and Dates: 8:30 a.m.—4:25 p.m., March 28, 2001.

Place: DoubleTree Hotel Atlanta-Buckhead, 3342 Peachtree Road, N.E., Atlanta, Georgia 30326

Status: Open to the public, limited only by the space available.

Purpose: The Committee advises and makes recommendations to the Secretary, Health and Human Services, the Director, CDC, and Director, National Center for Injury Prevention and Control (NCIPC) regarding feasible goals for the prevention and control of injury. The Committee makes recommendations regarding policies,

strategies, objectives, and priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance of intramural and extramural research, and also provides guidance on the needs, structure, progress and performance of intramural programs, and on extramural scientific program matters. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee also recommends areas of research to be supported by contracts and cooperative agreements and provides concept review of program proposals and announcements.

Matters to be Discussed: The meeting will convene in open session from 8:30 a.m. to 4:25 p.m. on March 28, 2001. Following the NCIPC Director's update, the Committee will discuss the role of ACIPC; NCIPC growth areas, including presentations on fire-related injury prevention and child maltreatment prevention research; NCIPC budget; and current spending plan in violence against women. The Committee will also discuss reports from a March 12, 2001, conference call meeting of the Subcommittee on Family and Intimate Violence Prevention and the March 28, 2001, meeting of the Science and Program Review Subcommittee. Other topics include patient safety as an injury prevention and control issue, and small business innovative research.

Name: ACIPC Science and Program Review Subcommittee.

Times and Dates: 11:30 a.m.—12:30 p.m., March 28, 2001.

Place: DoubleTree Hotel Atlanta-Buckhead, 3342 Peachtree Road, N.E., Atlanta, Georgia 30326.

Status: Open to the public, limited only by the space available.

Purpose: The Subcommittee provides advice on the needs, structure, progress and performance of NCIPC programs. The Subcommittee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Subcommittee also advises on priorities for research to be supported by contracts, grants, and cooperative agreements and provides concept review of program proposals and announcements.

Matters to be Discussed: The meeting will convene in open session from 11:30 a.m. to 12:30 p.m. on March 28, 2001. The Subcommittee will discuss an update on NCIPC's evaluation and planning.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Mr. Thomas E. Blakeney, Acting Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE, M/S K61, Atlanta, Georgia 30341–3724, telephone 770/488–1481.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: March 7, 2001.

Carolyn J. Russell,

Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 01–6130 Filed 3–12–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Peripheral and Central Nervous System Drugs Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of a meeting of the Peripheral and Central Nervous System Drugs Advisory Committee. This meeting was announced in the **Federal Register** of February 14, 2001 (66 FR 10304). The amendment is being made to cancel the entire session on March 15, 2001. This meeting is open to the public. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Sandra L. Titus, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, e–mail: tituss@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area) code 12543. Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 14, 2001 (66 FR 10304), FDA announced that a meeting of the Peripheral and Central Nervous System Drugs Advisory Committee would be held on March 13, 14, and 15, 2001. On page 10304, beginning in the last column, the *Date and Time*, *Agenda*, and *Procedure* portions of this meeting are amended to read as follows:

Date and Time: The meeting will be held on March 13 and 14, 2001, 8 a.m. to 5 p.m.

Location: Holiday Inn, The Ballroom, Two Montgomery Village Ave., Gaithersburg, MD.

Agenda: On March 13, 2001, the committee will discuss drug development for individuals with mild cognitive impairment (MCI). In the recent literature there has been a discussion of an entity referred to as MCI. While MCI is considered by some to be a distinct clinical entity, others consider that the majority of patients diagnosed with MCI have an early form of Alzheimer's Disease. It is critical for regulatory purposes that the issues surrounding this diagnosis are fully explored. Toward that end the committee will listen to speakers and discuss the following and other related questions:

1. Can MCI be clearly defined in a clinical setting?

2. Are there valid criteria for the diagnosis of MCI?

3. Can MCI be distinguished from Alzheimer's Disease and other causes of dementia?

4. What outcome measures are appropriate to use in clinical drug trials conducted in MCI?

5. Should clinical drug trials in MCI incorporate any special features in their design?

On March 14, 2001, the committee will discuss drug development for individuals with vascular dementia. While vascular dementia is considered by some to be a distinct entity others do not agree that it can be easily distinguished from Alzheimer's Disease and/or other dementias. It is critical for regulatory purposes that the issues surrounding this diagnosis are fully explored. Toward that end the committee will listen to presentations and then discuss the following and other related questions:

1. Can vascular dementia be clearly defined in a clinical setting?

2. Are there valid criteria for the diagnosis of vascular dementia?

3. Can vascular dementia be distinguished from Alzheimer's Disease and other causes of dementia?

4. What outcome measures are appropriate to use in clinical drug trials conducted in vascular dementia?

5. Should clinical drug trials in vascular dementia incorporate any special features in their design?

FDA will provide a background position paper on MCI and on vascular dementia prior to each meeting. When the background material becomes available, it will be posted under the Peripheral and Central Nervous System Drugs Advisory Committee Docket site at http://www.fda.gov/ohrms/dockets/ac/acmenu.htm. (Click on the year 2001 and scroll down to the Peripheral and Central Nervous System Drugs meetings.)

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by March 1, 2001. On March 13 and 14, 2001, oral presentations from the public will be scheduled between approximately 10:30 a.m. and 12:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before March 1, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: March 7, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–6241 Filed 3–8–01; 4:21 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–2975]

International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH); Final Guidance on ''Environmental Impact Assessments (EIA's) for Veterinary Medicinal Products (VMP's)–Phase I'' (VICH GL6); Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance for industry (No. 89) entitled ''Environmental Impact Assessments (EIA's) for Veterinary Medicinal Products (VMP's)–Phase I'' (VICH GL6). This final guidance document has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Approval of Veterinary Medicinal Products (VICH). It is intended to assist in developing harmonized guidance for conducting environmental assessments for VMP's in the European Union, Japan, and the United States.

DATES: Submit written comments at any time.

ADDRESSES: Copies of the final guidance documents entitled ''Environmental Impact Assessments (EIA's) for Veterinary Medicinal Products (VMP's)–Phase I '' (VICH GL6) may be obtained on the Internet from the CVM home page at http://www.fda.gov/cvm/fda/mappgs/vich.html. Persons without Internet access may submit written requests for a single copy of the final guidance to the Communications Staff (HFV–12), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your request.

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

FOR FURTHER INFORMATION CONTACT: Charles E. Eirkson (HFV–145), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6958, e–mail: ceirkson@cvm.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote the international harmonization of regulatory recommendations. FDA has participated in efforts to enhance harmonization and has expressed its commitment to seek scientifically based harmonized technical recommendations for the development of pharmaceutical products. One of the goals of harmonization is to identify and then reduce the differences in technical recommendations for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Conference on Harmonisation of Technical Requirements for Registration of Pharmaceuticals for Human Use for several years to develop harmonized technical recommendations for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for VMP's. The VICH is concerned with developing harmonized technical recommendations for the VMP's in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the: European Commission; European Medicines Evaluation Agency; European Federation of Animal Health; U.S. FDA; U.S. Department of Agriculture; Animal Health Institute; Japanese Veterinary Pharmaceutical Association; Japanese Association of Veterinary Biologics; and the Japanese Ministry of Agriculture, Forestry, and Fisheries.

Two observers are eligible to participate in the VICH Steering Committee: One representative from the Government of Australia/ New Zealand, and one representative from the industry in Australia/ New Zealand. The VICH Secretariat, which coordinates the preparation of documentation, is provided by the Confédération Mondiale de L'Industrie de la Santé Animale (COMISA). A COMISA representative also participates in the VICH Steering Committee meetings.

II. Guidance on Assessing Environmental Impacts of VMP's Other Than Veterinary Biological Products

In the **Federal Register** of September 17, 1999 (64 FR 50519), FDA published the notice of availability of the VICH GL6 guidance entitled ''Environmental Impact Assessments (EIA's) for Veterinary Medicinal Products (VMP's)–Phase I'' giving interested persons until October 18, 1999, to submit comments. In response to the **Federal Register** notice, the agency received one comment that endorsed adoption of the Phase I document. The European Union and Japan also published this guidance in their respective countries and requested comments. The comments were evaluated at the November 12 through 16, 1999, VICH Ecotoxicity/ Environmental Impact Assessment Working Group meeting in Brussels, Belgium. In response to the comments from the European Union and Japan, the working group revised the wording in questions 2, 6, 7, 8, 11, 14, 15, 16, and 17 to clarify the questions, the issues covered by questions or the information to be provided in response to questions. The working group also added questions 18 and 19 to the Phase I document. Questions 18 and 19 were added to account for regional laws that can alter environmental introductions of VMP's. Specifically in the European Union, certain member countries have legal requirements for a minimum manure storage period. Others have legal restrictions on the amount of manure that may be spread in a given area. These legal requirements will modify variables in the predicted

environmental concentration in soil PEC_{soil} calculation and the resulting PEC_{soil}, as described in question 17. Therefore, it is important to consider them in the Phase I EIA. At a meeting held June 14 through 16, 2000, the VICH Steering Committee endorsed the final VICH GL6 guidance that incorporates these changes.

VICH GL6 offers guidance on how to assess the environmental impact of VMP's other than veterinary biological products.

In the United States, the environmental impact of VMP's is determined under the requirements established by the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR part 1500 and 21 CFR part 25) and under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(d)). Under NEPA, an environmental assessment (EA) is conducted to determine whether a VMP may have a significant environmental impact. A particular VMP may be categorically excluded from the requirement of an EA, or it may require an EA, an environmental impact statement (EIS), or both.

This final guidance document is intended to be consistent with the laws of the European Union, Japan, and the United States. In an effort to harmonize the different recommendations in each of these areas for assessing the environmental impact of VMP's, this final guidance document adopts the terminology ''Phase I EIA's'' and ''Phase II EIA's.'' Using the terminology of the final guidance document, a Phase I EIA is equivalent under NEPA to either a categorical exclusion or an EA that addresses only environmental exposures (40 CFR 1508.4 and 1508.9). A Phase II EIA is equivalent to an EA with more extensive data than would be necessary under the U.S. equivalent of a Phase I EIA. A Phase II EIA may lead to a finding of no significant impact or preparation of an EIS under NEPA.

This final Level 1 guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). This final guidance document represents a portion of FDA's current thinking on the conduct of ecological risk assessment for veterinary medicinal products proposed for marketing in the European Union, Japan, and the United States. It does not create or confer any rights for or on any person, and does not operate to bind FDA or the public. An alternate method may be used as long as it satisfies the requirements of applicable statutes and regulations.

Information collected is covered under OMB control number 0910–0332.

III. Comments

As with all of FDA's guidances, the public is encouraged to submit written comments with new data or other new information pertinent to this final guidance. FDA will periodically review the comments in the docket and, where appropriate, will amend the guidance. The agency will notify the public of any such amendments through a notice in the **Federal Register**.

Interested persons may, at any time, submit written comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 5, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–6116 Filed 3–12–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0079]

Acceptance of Foreign Clinical Studies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a final guidance entitled ''Acceptance of Foreign Clinical Studies.'' This final guidance is intended to clarify the ethical principles with which a sponsor must comply before FDA would accept a foreign clinical study not conducted under an investigational new drug application (IND) or investigational device exemption (IDE) in support of a marketing approval application.

DATES: Submit written comments on the final guidance at any time.

ADDRESSES: Submit written requests for single copies of the final guidance entitled ''Acceptance of Foreign Clinical Studies'' to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send two self-addressed adhesive labels to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1601, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the final guidance.

FOR FURTHER INFORMATION CONTACT: David A. Lepay, Office for Science Coordination and Communication (HF–34), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4000.

SUPPLEMENTARY INFORMATION:

I. Background

FDA regulations allow for the acceptance of foreign clinical studies not performed under an IND or IDE in support of a marketing approval application for a drug, biological product, or device if certain conditions are met. Under these regulations, the study must conform to the ethical principles contained in the Declaration of Helsinki (the Declaration) or with the laws and regulations of the country in which the research was conducted, whichever provides greater protection of the human subjects. In October 2000, the World Medical Association approved a fifth revision of the Declaration. FDA is making this guidance available to clarify which version of the Declaration was incorporated into the drug regulations, and which version of the Declaration was incorporated into the device regulations, and, therefore, which version of the Declaration is applicable to foreign studies conducted without an IND or IDE. FDA will also review any other guidance documents on this subject, and modify them, if necessary, to conform to the clarification expressed in this guidance.

II. Significance of Guidance

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The guidance represents the agency's current thinking on the ethical principles with which a sponsor must comply before FDA would accept a foreign clinical study not conducted under an IND or IDE in support of a marketing approval application. It does not create or confer

any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

Under FDA's good guidance practice regulations, this guidance is being issued as a Level 2 guidance because it sets forth the agency's existing practices (21 CFR 10.115(c)(2); 65 FR 56468, September 19, 2000). Therefore, FDA is issuing this document as a final guidance prior to receiving public comment. However, as with all FDA guidance, the public is encouraged to submit written comments with new data or other new information pertinent to this guidance. The comments in the docket will be periodically reviewed, and, where appropriate, the guidance will be amended.

III. Comments

Interested persons may, at any time, submit written comments on the final guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The final guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

IV. Electronic Access

Persons with access to the Internet may obtain this guidance at http://www.fda.gov/cder.

Dated: March 5, 2001.

Ann M. Witt,

Acting Associate Commissioner for Policy.

[FR Doc. 01–6135 Filed 3–12–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: February 2001

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of February 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, *e.g.,* a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, City, State	Effective date
Program-Related Convictions	
Abcunas, Maryann, Lowell, MA	03/20/2001
Adler, Jacob, Valley Village, CA	03/20/2001
Agcaoili, Sonia Maritess, Long Beach, CA	03/20/2001
Allbritton, Carolyn Diane, Shreveport, LA	03/20/2001
Anderson, Susan Hope, Pocola, OK	03/20/2001
Azu, Philip, White Deer, PA	03/20/2001
Bennett, Vincent, Bernard, Detroit, MI	03/20/2001
Bonsu, Osei A., Lilburn, GA	03/20/2001
Boodram, Suresh, Massapequa, NY	03/20/2001
Boyadzhyan, Nerses, Los Angeles, CA	03/20/2001
Cararie, Francis N., Finleyville, PA	03/20/2001
Chhugani, Jagi, Rego Park, NY	03/20/2001
Clayton, Nolan C., Walterboro, SC	03/20/2001
Cottle, John P., Edgefiled, SC	03/20/2001
Davis, Troy R., Glendale, AZ	03/20/2001
Dunster, Misty L., Montpelier, VT	03/20/2001
Eastman, Kathryn, Coloma, MI	03/20/2001
Evans, Clarence J., Brooklyn, NY	03/20/2001
Evans, Linda Faye, Simsboro, LA	03/20/2001
Fann, Edward C., St. Louis, MO	03/20/2001
Gaumond, Jody Lynn, Methuen, MA	03/20/2001
Gibbs, Lisa A., Providence, RI	03/20/2001
Green, Michael Jerome, Jackson, MS	03/20/2001
Guzek, Robert, Valparaiso, IN	03/20/2001
Guzman, Emilia, Miami, FL	03/20/2001
Halladay, Kathryn Clara, Torrance, CA	03/20/2001
Healthtek, Inc., Vancouver, WA	03/20/2001
Hope, Robert B., Ogden, UT	03/20/2001
Hughes, Larry M., Kansas City, MO	03/20/2001
Johnson, Deana Tanner, Hurst, TX	03/20/2001
Karu, Louise May, Oakland, CA	03/20/2001
Ketsoyan, Levon, Eloy, AZ	03/20/2001
King, John Victor, III, Southfield, MI	03/20/2001
Kleaveland, Joan Sherry, Benton Harbor, MI	03/20/2001
Koral, Allen, Jericho, NY	03/20/2001
Lang, Joel J., Cheverly, MD	03/20/2001
Leistritz, Mark Brandon, Austin, TX	03/20/2001
Meulener, Lazaro, Miami, FL	03/20/2001
Ochoa, Marlene Santana, Miami, FL	03/20/2001
Oni, Oluremi, Providence, RI	03/20/2001
Papisian, Hagop, Granada Hills, CA	03/20/2001
Prater, Carolyn Sue, Hueysville, KY	03/20/2001
Redonado, Ileana, Fort Lee, NJ	03/20/2001
Sand, Scott Robert, Lake Arrowhead, CA	03/20/2001
Santana, Ana Luisa Gonzalez, Hialeah, Fl	03/20/2001
Santana, Milagro, Miami, FL	03/20/2001
Sefiljian, Karine M., Valencia, CA	03/20/2001
Simmons, Stephanie, Baltimore, MD	03/20/2001
Syal, Harshbala, Northridge, CA	03/20/2001
Turner, Thomas Phares, Oklahoma, OK	03/20/2001
Villamor, Manuel A., Miami, FL	03/20/2001
Virzi, Nina, Bryn Mawr, PA	03/20/2001
Wilner, Alan, Roslyn Estates, NY	03/20/2001
Wilson, Susan Arnsdorff, Leavenworth, WA	03/20/2001
Zarza, Jose, Blounstown, FL	03/20/2001
Felony Conviction for Health Care Fraud	
Bates, Tammy Lavon, Perkin, IL	03/20/2001
Hayes, Ruth Ann, Roanoke, VA	03/20/2001
Sanchez Christina, L., Albuquerque, NM	03/20/2001
Felony Control Substance Conviction	
Banerjee, Haradhan, Cleveland, OH	03/20/2001
Burke, Debra L., Ebensburg, PA	03/20/2001
Cobb, Timothy L., Yuma, AZ	03/20/2001
Deberry, Carroll S., Beaver, WV	03/20/2001
Fredebaugh, Loreal L., Mentor, OH	03/20/2001
Frisby, Julie Ann, Fayetteville, AR	03/20/2001
Gormley, Daniel Littleton, Co	03/20/2001
Hinds, Donald Edward, II, Indianapolis, IN	03/20/2001
Khan, Mudassir Ali, New York, NY	03/20/2001
Kovach, Kathleen A., Sheffield, OH	03/20/2001
Miller, Robert J., Ackron, OH	03/20/2001
Veasley, Audrey Nannette, Milwaukee, WI	03/20/2001

Subject, City, State	Effective date
Patient Abuse/Neglect Convictions	
Argueta, Edward A., Seaside Park, NJ	03/20/2001
Bationg, Geobi W., Enid, OK	03/20/2001
Briscoe, Willie Earl, Houston, TX	03/20/2001
Clark, Vunner, Sledge, MS	03/20/2001
Dukes, Tia A., Bioloxi, MS	03/20/2001
Foster, Synthia Ann, Enid, OK	03/20/2001
Gillis, David H., Cincinnati, OH	03/20/2001
Griggs, Della, Mooreland, IN	03/20/2001
Howell, Hollis Dewayne, Meridian, MS	03/20/2001
Hughes, Kinsha, Forest, MS	03/20/2001
Laferriere, James A., Cranston, RI	03/20/2001
Lampley, Sybil D., Laureal, MS	03/20/2001
Linzay, Philip Andrew, Alexandria, LA	03/20/2001
Luvine, Jennifer, Mount Olive, MS	03/20/2001
McCormack, Alvin Peter, Carson, WA	03/20/2001
Moore, Mary L., Summerton, SC	03/20/2001
O'Connor, Gayle Lee, Glendale, CA	03/20/2001
Oglesby, Willie, Ripley, MS	03/20/2001
People, Donald, Decatur, AL	03/20/2001
Tillman, George A., Paris, MO	03/20/2001
Tucker, Roshae, Laurel, MS	03/20/2001
Weitz, Todd N., Titusville, FL	03/20/2001
Conviction for Health Care Fraud	
Kutcher-Olivo, Robert, Condado, PR	03/20/2001
License Revocation/Suspension/ Surrendered	
Adams, Shirley Ann, Bellevue, IA	03/20/2001
Alamillo, Raquel, Denver, CO	03/20/2001
Anderson, Sharron Lee, Boise, ID	03/20/2001
Andrews, Sharlie Jane, Palm Desert, CA	03/20/2001
Banayan, Farajollah, Mordechai, Los Angeles, CA	03/20/2001
Barton, Tammy R., Iowa City, IA	03/20/2001
Booth, Jamie Lee, Simi Valley, CA.	03/20/2001
Borresen, Elizabeth Anne, Apple Valley, MN	03/20/2001
Bowles, Theodore Archie, Macon, GA	03/20/2001
Brown, Dorothy I., Plymouth MTG, PA	03/20/2001
Bugbee, Michele Sue, Claremont, NH	03/20/2001
Burton, Cori Ann, Ft. Worth, TX	03/20/2001
Byrd, Marie S., Fayetteville, Ga	03/20/2001
Cekala, Pamela S., N. Stonington, CT	03/20/2001
Charron, Keith R., Lyndonville, VT	03/20/2001
Chimento, Tammy D., Goose Creek, SC	03/20/2001
Cohen, Jack J., Brooklyn, NY	03/20/2001
Conant, Mark R., Brawley, CA	03/20/2001
Connell, Christopher, Oklahoma City, OK	03/20/2001
Cookson, Philip Andrew, San Diego, CA	03/20/2001
Cooper, Lucinda Henderson, Jefferson, NY	03/20/2001
Cooper, Sarah H., Charles, SC	03/20/2001
Cundiff, David Keith, Long Beach, CA	03/20/2001
Custer, Christine L., Oakdale, CT	03/20/2001
Defelice, Louis J., Parker, CO	03/20/2001
Dell, Gary L., Jr., London, OH	03/20/2001
Dinkel, Arthur, R., Jr., Denville, NJ	03/20/2001
Domke, Michele S., Salt Lake City, UT	03/20/2001
Dunn, Mary Frances, Waco, TX	03/20/2001
Ebbs Barbara Ann, Bellevue, ID	03/20/2001
Fisch, Alan, Brookline, MA	03/20/2001
Folsom, Cay M., Mason City, IA	03/20/2001
Fuller, Sharon Denise, Atlanta, GA	03/20/2001
Gahner, Duane, Jamestown, ND	03/20/2001
Gaither, James, Indianapolis, IN	03/20/2001
Gonzalez, Gilbert J., Atlanta, GA	03/20/2001
Gray, Sheri A., Anderson, SC	03/20/2001
Greenwell, Nancy H., Deary, ID	03/20/2001
Hall, Sybil M., New Albany, IN	03/20/2001
Halligan, Mavis E., Garland, TX	03/20/2001
Hardcastle, Brian, Grainesville, FL	03/20/2001
Havet, Keith E., Covina, CA	03/20/2001
Hawkins, Renee K., Moore, SC	03/20/2001
Herring, Cynthia, Hempstead, TX	03/20/2001
Hersey, Leslie E., Woodsville, NH	03/20/2001
Hicks, Jennifer A., Lyme, NH	03/20/2001
Hinnen, Gerhard J., Dadeville, Al	03/20/2001
Holmes, Linda K., Rock Hill, SC	03/20/2001
Janic, Michael Arthur, Irwin, PA	03/20/2001
Johnson, Cora Beth, Marquette Hgts, IL	03/20/2001
Johnson, James E., Nashville, TN	03/20/2001
Jones, Michael R., Gainesville FL	03/20/2001
Jordan, Terry Lee, Sherman, TX	03/20/2001
Jubert, Angela K., Carmel, IN	03/20/2001
Kaplan, Herbert Arthur, Los Angeles, CA	03/20/2001
Kerner, Jacqueline S., Woodridge, IL	03/20/2001
King, Grant M., Pomona, CA	03/20/2001
Klein, Alice R., Austin, TX	03/20/2001
Klein, Jerri Lynn, Granite City, IL	03/20/2001
Kotz, Teri Ross, Smithland, IA	03/20/2001
Krain, Lawrence Stirling, Chicago, IL	03/20/2001
Kupczynski, Richard B., Chicago, IL	03/20/2001
Laforest, Janet, Manchester, CT	03/20/2001
Langer, Lisa Ann, Champaign, IL	03/20/2001
Lanza, Dorothy, Derby, CT	03/20/2001
Lee, Yoon Bom, New Smyrana Beach, FL	03/20/2001
Lindsey, Joseph Fidel, Norton, OH	03/20/2001
Long, Shirley M., Dormont, PA	03/20/2001
Lozano, Tony Atilano, Anaheim, CA	03/20/2001
Luh, Hsiou-Kuang, Fountain Valley, CA	03/20/2001
Madison, Veronica Sue, Wood River, IL	03/20/2001
Madsen, Steven, Fargo, ND	03/20/2001
Magina, Maria Katherine, Mountain View, CA	03/20/2001
Maples, Jerald Eugene, Harrah, OK	03/20/2001
Mathes, Michael Eugene, Boise, ID	03/20/2001
McGuines, Christina J., Buffalo, NY	03/20/2001
Mcillece, Elizabeth Campbell, Cedar Park, TX	03/20/2001
McMillan, Kris Phillip, Roselle, IL	03/20/2001
McRae, Elizabeth, Norwalk, CT	03/20/2001
Montano, Grethe Martens, Anatone, WA	03/20/2001
Morales, Jorge A., Plymouth, NH	03/20/2001
Morris, Sharon W., Savannah, GA	03/20/2001
Morris, Marjorie Christine, Kearns, UT	03/20/2001
Murray, Theodore Banal, Monterey, CA	03/20/2001
Musick, Janna Denise, Davie, FL	03/20/2001
Nantt, Luella, Dickinson, ND	03/20/2001
Neil, Edwin J., Beaverton, OR	03/20/2001
Norton, Kathy L., Dawson, IA	03/20/2001
Nowik, James A., Rhinebeck, NY	03/20/2001
O'Toole, Rita Kay Atwood Winn, Jerome, ID	03/20/2001
Ogle, Linda Louise, Seatle, WA	03/20/2001
Orr, Penny Lee, Wyoming, IL	03/20/2001
Pennington, Ellen M., Mt Sterling, OH	03/20/2001
Perugini, Katherine A., Oakville, CT	03/20/2001
Peters, Susan Kay, Houston, TX	03/20/2001
Piech, Christie Lynn, Hammond, IN	03/20/2001
Piecznski, Bradley John, Warrenville, IL	03/20/2001
Plante, Elizabeth A., Hollis, NH	03/20/2001
Pool, Dennis Ray, Covina, CA	03/20/2001
Porter, Ola M., Corpus Christi, TX	03/20/2001
Pratis, Jennifer Lynn, Morris, IL	03/20/2001
Prince, Vicki Lynn, Troy, IL	03/20/2001
Pryor, Mario Antwan, Chicago, IL	03/20/2001
Qualls, Marilyn, Chicago, IL	03/20/2001
Quandt, Marian L., Waterloo, IA	03/20/2001
Quarles, Norrice Lamon, E Moline, IL	03/20/2001
Ray, Stephen Christop, Chicago, IL	03/20/2001

Subject, City, State	Effective date
Reddy, Janardhan Bokka, Schenectady, NY	03/20/2001
Rhodes, Robin Arlene, Granbury, TX	03/20/2001
Rivera, Pedro I., Hutchins, TX	03/20/2001
Rivera, Santos, Jr., Chicago, IL	03/20/2001
Rodriguez, Cynthia V., San Antonio, TX	03/20/2001
Rodriguez, Karen Dawn, Ft Myers, FL	03/20/2001
Romanowski, Melanie Laura, Wheaton, IL	03/20/2001
Safarcyk, Luke Allen, Morris, IL	03/20/2001
Sanchez, Susanna, Chicago, IL	03/20/2001
Sanders, Sandra L., Greenfield, TN	03/20/2001
Schmitt, George M., Pittsburgh, PA	03/20/2001
Schnelten, Eric Dewayne, Roodhouse, IL	03/20/2001
Schurman, Virginia A., Portsmouth, RI	03/20/2001
Seagle, Iris Jean, Muskogee, OK	03/20/2001
Seale, Shay Lynn, Mountain View, OK	03/20/2001
Sealy, Shurland Hassim, Orlando, FL	03/20/2001
Seiz, Eric Kent, Springfield, IL	03/20/2001
Sheldon, Peggy, Boise, ID	03/20/2001
Sieber, Cori Lynn, Oak Harbor, WA	03/20/2001
Sivas, Edward Daniel, Apple Valley, CA	03/20/2001
Smith, Sarah C., Powder Springs, GA	03/20/2001
Smotherman, Charlie Joe, Denison, TX	03/20/2001
Snyder, Jeremiah Jay, Ralston, OK	03/20/2001
Sorensen, Dorothy, Santa Fe, NM	03/20/2001
Stafford, Robert Wesley, Denison, TX	03/20/2001
Stamos, George Peter, Chicago, IL	03/20/2001
Stewart, Ralph Christopher, Richmond, VA	03/20/2001
Sundry, Vincent, Tarpon Springs, FL	03/20/2001
Thomas, Shawn K, Gardena, CA	03/20/2001
Thomas, Elizabeth Ann, Chicago, IL	03/20/2001
Thompson, Gerone Thadius, San Bernardino, CA	03/20/2001
Tracey, Matthew A., Miami, FL	03/20/2001
Tran, Yen NGOC, Chicago, IL	03/20/2001
Tremallo, Fayette, Stratford, CT	03/20/2001
Triplett, Wallace, Jr., Chicago, IL	03/20/2001
Tripp, Loring, Sarasota, FL	03/20/2001
Tucker, James Edward, Manhattan Bch, CA	03/20/2001
Ventrucci, Timothy M., Hurley, WI	03/20/2001
Vest, Richard, Ririe, ID	03/20/2001
Wallace, Cathy A., Chicago, IL	03/20/2001
Weigand, David W., Somerset, NJ	03/20/2001
Wheat, William, Palm Harbor, FL	03/20/2001
Williams, Martin R., Monteray, CA	03/20/2001
Williams, Needra A., Chicago, IL	03/20/2001
Wineinger, Nancy Ann, Amarillo, TX	03/20/2001
Zevallos, Carlos A., Sun Valley, CA	03/20/2001
Federal/State Exclusion/Suspension	
Benedict, Gisele, Joshua Tree, CA	03/20/2001
Cheregi, Ioan, Skokie, IL	03/20/2001
Garcen-Ciallella, Gina, Ford, NJ	03/20/2001
Krivoruchoko, Arkadiy, Vernon Hills, IL	03/20/2001
Fraud/Kickbacks	
Krepps, Cathleen S., Grand Junction, CO	06/29/2001
Owned/Controlled by Convicted Excluded	
Knoxville Medical Mgmt. Group, Knoxville, TN	03/20/2001
W. Knoxville Family Medical Ctr., Knoxville, TN	03/20/2001
Worthington Family Medical Ctr., Knoxville, TN	03/20/2001
Failure To Provide Payment Information	
Brown, Virgious B., Paincourtville, LA	03/20/2001
Default on Heal Loan	
Buford, John I., Philadelphia, PA	03/20/2001
Chambers, Jamie L., Seattle, WA	03/20/2001
Darish, Susan B., Malden, MA	03/20/2001
Donaghe, Brian L., Templeton, CA	03/20/2001
Ellis, Detra L., Hamilton, AL	03/20/2001
Evans, Carl D., Chagrin, Falls, OH	03/20/2001
Friedman, Gary S., Old Bridge, NJ	03/20/2001
Girault, Gisele J., Grantham, NH	03/20/2001
Goldstein, Sheryl L., Perkasie, PA	03/20/2001
Gross, George E., Arlington, TX	01/31/2001
Hensgen, Kara L., Portland, OR	03/20/2001
Holahan, Gordon V., Jr., Narragansett, RI	03/20/2001
Holloway, Jimmy D., El Paso, TX	03/20/2001
Hudgins, Mark A., Fort Wayne, IN	03/20/2001
Hunger, Edwin L., Jr., San Diego, CA	03/20/2001
Klein, Howard Seth, Pompano Bch, FL	03/20/2001
Ladore-McFarland, Bonnie G., Riverside, CA	03/20/2001
Martin, Deo Victor, San Francisco, CA	03/20/2001
Matthews, William E., Mars, PA	03/20/2001
Meshesha, Moges M., Houston, TX	03/20/2001
Muszik, Joseph K., Sharon, PA	03/20/2001
Namie, Ruth F., Benicia, CA	03/20/2001
Nigro, Bruce M., Sebring, FL	03/20/2001
Ninomiya, Jesse K., Honolulu, HI	03/20/2001
Nkuku, Christopher N., Berkeley, IL	03/20/2001
Owen, Michael D., Ashland, OR	03/20/2001
Pham, Vinh H., Las Vegas, NV	03/20/2001
Phillips, Constance K., San Francisco, CA	03/20/2001
Powell, Dorothy J., Temple Hills, MD	03/20/2001
Rose Myrtle F., Dallas, TX	02/08/2001
Russell, Mark D., Columbia, MO	03/20/2001
Shelton, Annette Marie, Arlington, TX	03/20/2001
Thames, Douglas A., Pitman, NJ	03/20/2001
Villaverde, John J., Birmingham, Al	03/20/2001
Wahl, David G., Montgomery, MN	01/25/2001
Washington, George L., Antioch, TN	03/20/2001
Wheeler, Cynthia L., Belleville, IL	03/20/2001

Dated: March 5, 2001.

Calvin Anderson, Jr.,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 01–6206 Filed 3–12–01; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Applicant: Exotic Feline Breeding Compound, Inc., Rosamond, CA, PRT–37998

The applicant requests a permit to export one captive born Amur leopard (*Panthers pardus orientalis*) to the London Zoo, London England for the purpose of enhancement of the survival of the species through captive propagation.

Applicant: Fossil Rim Wildlife Center, Glen Rose, TX, PRT–038746

The applicant request a permit to import a pair of captive-bred maned wolves (*Chrysocyon brachyurus*) from the Parque Natural da CBMM, Araxa, Brazil, for the purpose enhance of the survival of the species through captive propagation.

Applicant: John M. Panettiere, Eclectic, AL, PRT–038818

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Kenneth A. Bollinger, Adrian, MI, PRT–038814

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: George E. Felbaum, Tipton, MI, PRT–038813

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: The Wildlife Conservation Society/Field Veterinary Program, Bronx, NY, PRT–038794

The applicant requests a permit to import samples obtained from Green sea turtle, (*Chelonia mydas*), Leatherback sea turtle (*Dermochelys coriacea*), Hawksbill sea turtle, (*Eretmochelys imbricata*), and Olive Ridley sea turtle, (*Lepidochelys olivacea*), from world wide sources for enhancement of the species through scientific research. This notification covers activities to be conducted by the applicant for a five year period.

Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with marine mammals. The application(s) was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Written data, comments or requests for copies of these complete applications or requests for a public hearing on these applications should be sent to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281. These requests must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Robert J. Seidelman, Montgomery, IL, PRT–038861

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use taken January, 2001.

Applicant: David J. Witmer, Carlisle, PA, PRT–038869

The applicant requests a permit to import a polar bear (Ursus maritimus) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use taken January, 2001.

The U.S. Fish and Wildlife has information collection approval from OMB through February 28, 2001. OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: February 12, 2001.

Anna Barry,

Branch of Permits, Division of Management Authority.

[FR Doc. 01–3938 Filed 3–12–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On October 19, 2000, a notice was published in the **Federal Register**, Vol. 65, No. 203, Page 62747, that an application had been filed with the Fish and Wildlife Service by U.S.G.S. Biological Resources Division, Santa Cruz, CA, for an amended permit (PRT–672624) to take Southern sea otters (*Enhydra lutris nereis*) for scientific research.

Notice is hereby given that on February 2, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On March 25, 2001, a notice was published in the **Federal Register**, Vol. 64 , No. 57, Page 14460, that an application had been filed with the Fish and Wildlife Service by John R. Garland for a permit (PRT–008969) to import one polar bear (Ursus maritimus) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on January 31, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On December 7, 2000, a notice was published in the **Federal Register**, Vol. 65 , No. 236, Page 76662, that an application had been filed with the Fish and Wildlife Service by Bryce W. Smith for a permit (PRT–036348) to import one polar bear (Ursus maritimus) trophy taken from the Southern Beaufort Sea population, Canada for personal use.

Notice is hereby given that on January 23, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: February 12, 2001.

Anna Barry,

Branch of Permits, Division of Management Authority.

[FR Doc. 01–3937 Filed 3–12–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Wyoming Oil Royalty-In-Kind Pilot Report

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Availability For Review and Comment of the Wyoming Oil Royalty-In-Kind Pilot Report—Evaluation of the Pilot's First 18 Months (October 1998—March 2000).

SUMMARY: Minerals Management Service (MMS) will post on MMS's Internet Home Page the *Wyoming Oil Royalty-In-Kind Pilot Report—18 Months and Counting.* Comments will be accepted electronically or in hard copy.

DATES: Please submit comments on or before April 27, 2001.

ADDRESSES: The Report may also be obtained by contacting Mr. Martin C. Grieshaber, Minerals Management Service, MS 9200, PO Box 25165, Denver, CO 80225–0165.

FOR FURTHER INFORMATION CONTACT: Mr. Martin C. Grieshaber, telephone number (303) 275–7118; fax (303) 275–7124; e-mail *Martin.Grieshaber@mms.gov.*

SUPPLEMENTARY INFORMATION: The Report will be posted at http://www.mrm.mms.gov under the icons ''What's New'' and ''Royalty in Kind.'' The Wyoming Oil Royalty-In-Kind Pilot was a result of a feasibility study published by MMS in 1997. That study concluded that, under the right circumstances, royalty in kind could be workable, revenue neutral or positive, and administratively more efficient for MMS and industry. The study recommended a set of royalty-in-kind pilot projects to test these conclusions. MMS, in partnership with the State of Wyoming, began taking in kind and offering for sale oil from leases in the Big Horn and Powder River Basins in October 1998. The Report summarizes and analyzes the results of the first three 6-month sales. The Wyoming Oil Royalty-in-Kind Program is currently in its sixth sale period.

MMS and the State of Wyoming have been in continuous contact with affected parties. The Royalty-in-Kind Program is under constant improvement. Many of these improvements are a direct result of the lessons learned during the pilot period and subsequent sales. MMS's intent in making the Report available for comment prior to finalization is to continue these iterative improvements by receiving comments from individuals and groups with expertise in the Wyoming oil market. General comments concerning the analysis of the Wyoming Oil Royalty-in-Kind Pilot will assist MMS in future reviews of its gas Royalty-in-Kind Pilots in the Gulf of Mexico.

Dated: March 7, 2001.

Walter Cruickshank,

Associate Director for Policy and Management Improvement.

[FR Doc. 01–6131 Filed 3–12–01; 8:45 am]

BILLING CODE 4310–MR–W

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Settlement Agreement in *In re Beloit Corporation,* C.A. No. 99–2177 (Bnkr. Ct. Del.), was lodged on March 5, 2001, with the United States Bankruptcy Court for the District of Delaware. The Settlement Agreement resolves the United States' claims against the Beloit Corporation (''Beloit'') with respect to past response costs incurred and future costs to be incurred, pursuant to Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607, in connection with the clean-up of the O'Brien Machinery Site (''Site''), located in Downington, Pennsylvania.

Under the Settlement Agreement, Beloit has agreed to give EPA, a general unsecured creditor, an allowed claim in the amount of $280,000.00 in reimbursement of response costs incurred in connection with the Site. Beloit will pay the allowed claim on the same basis as it pays the allowed claims of all other unsecured creditors.

The Department of Justice will receive, for a period of 30 days from the date of this publication, comment relating to the proposed Settlement Agreement. Comments should be addressed to the Acting Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *In re Beloit Corporation,* DOJ Reference No. 90–11–2–207/4.

The proposed Settlement Agreement may be examined at the Office of the United States Attorney, Chemical Bank Plaza, 1201 Market Street, Suite 1100, Wilmington, Delaware 19899; and the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the proposed Settlement Agreement may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.75 (.25 center per page production costs), payable to the Consent Decree Library.

Robert D. Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–6231 Filed 3–12–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Agency Information Collection Activities: Proposed Collection; Comment Requested

ACTION: Notice of Information Collection Under Review; Extension of a currently approved collection; Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance. (DEA Form 189).

The Department of Justice, Drug Enforcement Administration (DEA), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted until May 14, 2001.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Mr. Frank L. Sapienza, Chief, Drug and Chemical Evaluation Section, Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice, Washington, DC 20537, telephone 202–307–7183.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the function 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; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

1. Type of information collection: Extension of a currently approved collection.

2. The title of the form/collection: Application for Individual Manufacturing Quota for a Basic Class of Controlled Substance.

3. The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form number: DEA Form 189. Applicable component of the Department sponsoring the collection: Office of Diversion Control, Drug Enforcement Administration, U.S. Department of Justice.

4. Affected public who will be asked or required to respond, as well as brief abstract: Primary: Business or other for-profit. Other: None.

Abstract: Title 21, CFR, Section 1303.22, requires that any person who is registered to manufacture any basic class of controlled substance listed in Schedule I or II and who desires to manufacture a quantity of such class must apply on DEA Form 189 for a manufacturing quota for such quantity of such class.

5. An estimate of the total number of respondents, responses and the amount of time estimated for an average respondent to respond/reply annually: 30 respondents, 263 responses, .5 hour per response. A respondent may submit multiple responses. A respondent will take a estimate of 30 minutes to complete each form.

6. An estimate of the total public burden (in hours) associated with the collection: 131.5 annual burden hours.

Public comments on this proposed information collection are strongly encouraged.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, National Place Building, 1331 Pennsylvania Avenue, Suite 1220, NW, Washington, DC 20530.

Dated: March 7, 2001.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 01–6129 Filed 3–12–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP(OJJDP)–1312]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of meeting.

SUMMARY: Announcement of the Coordinating Council on Juvenile Justice and Delinquency Prevention meeting.

DATES: A meeting of this advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will take place in the District of Columbia, beginning at 1 p.m. on Thursday, March 29, 2001, and ending at 3 p.m., ET.

ADDRESSES: The meeting will take place at the U.S. Department of Justice, Office of Justice Programs, Main Conference Room, 3rd Floor, 810 Seventh Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Bob Altman, Program Manager, Juvenile Justice Resource Center, at (301) 519–5721. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Coordinating Council, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App.2), will meet to carry out its advisory functions under Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. § 5601 *et seq.*). This meeting will be open to the public. Members of the public who wish to attend the meeting should notify the Juvenile Justice Resource Center at the number listed above by 5 p.m., ET, on Tuesday, March 20, 2001. For security purposes, picture identification will be required.

Dated: March 8, 2001.

John J. Wilson,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01–6214 Filed 3–12–01; 8:45 am]

BILLING CODE 4410–18–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting; Notice

TIME AND DATE: 10 a.m., Thursday, March 15, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Consolidation Coal Co., Docket No. WEVA 98–148 (Issues include whether the judge properly determined that the operator's violations of 30 CFR §§ 75.360 and 75.400 were not a result of unwarrantable failure).

TIME AND DATE: 11:15 a.m., Friday, March 30, 2001.

PLACE: Department of Labor Auditorium, U.S. Department of Labor, Francis Perkins Building, 200 Constitution Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Lopke Quarries, Inc., Docket No. VA 99–17–M (Issues include whether the judge erred in determining that (1) the operator violated 30 CFR § 56.11001 and that the violations were significant and substantial and due to unwarrantable failure, (2) the operator did not violate 30 CFR § 56.14100(b), and (3) the operator did not violate 30 CFR § 56.14101(a)(2)):

Sandra G. Farrow,

Acting Chief Docket Clerk.

TIME AND DATE: 10 a.m., Tuesday, April 3, 2001.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Lopke Quarries, Inc., Docket No. VA 99–17–M (see oral argument listing).

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

[FR Doc. 01–6370 Filed 3–9–01; 3:44 pm]

BILLING CODE 6735–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of a currently approved information collection used by customers/researchers for ordering reproductions of NARA's motion picture, audio, and video holdings that are housed in the Washington, DC area of the National Archives and Records Administration. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before May 14, 2001 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (NHP), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–6913; or electronically mailed to tamee.fechhelm@nara.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–713–6730, or fax number 301–713–6913.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) whether the proposed information collection is necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collection; (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 the use of information technology. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

Title: Item Approval Request List.

OMB number: 3095–0025.

Agency form number: NA Form 14110 and 14110A.

Type of review: Regular.

Affected public: Business or for-profit, nonprofit organizations and institutions, federal, state and local government agencies, and individuals or households.

Estimated number of respondents: 2,816.

Estimated time per response: 15 minutes.

Frequency of response: On occasion (when respondent requests copies of motion picture, audio, and video holdings from NARA).

Estimated total annual burden hours: 704 hours.

Abstract: The information collection is prescribed by 36 CFR 1254.72. The collection is prepared by researchers who cannot visit the appropriate NARA research room or who request copies of records as a result of visiting a research room. NARA offers limited provisions to obtain copies of records by mail and requires requests to be made on prescribed forms for certain bodies of records. NARA uses the Item Approval Request List form to track reproduction requests and to provide information for customers and vendors.

Dated: March 6, 2001.

L. Reynolds Cahoon,

Assistant Archivist for Human Resources and Information Services.

[FR Doc. 01–6122 Filed 3–12–01; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Modification Received under the Antarctic Conservation Act of 1978, Pub. L. 95–541

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by April 12, 2001. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the ''Agreed Measures for the Conservation of Antarctic Fauna and Flora'' for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

Description of Permit Modification Requested

The Foundation issued a permit (1999–009) to Dr. William R. Fraser on September 25, 1998. The issued permit allows the applicant to capture and release a variety of seabirds to access how annual environmental variability affects their diets, breeding success, growth rates, population trends, foraging success and seasonal dispersal. The applicant proposed to census populations; capture, mark, and weigh a select number of adults, chicks and eggs; obtain diet samples, place radio/satellite transmitters on some individuals to develop profiles on foraging effort and dispersal; and use GIS/GPS technologies to map and characterize breeding habitat features.

The applicant proposes to modify his permit by expanding his study to include a few additional seabird species. The applicant estimates studying up to 50 Emperor penguins, 100 Gentoo penguins, 100 Chinstrap Pengins, and 100 each of Snow, Cape

and Antarctic Petrels. All seabirds will be released unharmed.

Location

Palmer Station and Antarctic Peninsula vicinity.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 01–6192 Filed 3–12–01; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Meeting

The National Science Foundation announces the following meeting:

Name: Interagency Arctic Research Policy Committee (IARPC).

Date and Time: Tuesday, April 10, 2001, 2:00–4:00 PM.

Place: National Science Foundation, Room 375, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed. The meeting is closed to the public because future fiscal year budget and policy issues will be discussed.

Contact Person: Charles E. Myers, Office of Polar Programs, Room 755, National Science Foundation, Arlington, VA 22230, Telephone: (703) 306–1029.

Purpose of Committee: The Interagency Arctic Research Policy Committee was established by Public Law 98–373, the Arctic Research and Policy Act, to help set priorities for future arctic research, assist in the development of a national arctic research policy, prepare a multi-agency budget and Plan for arctic research, and simplify coordination of arctic research.

Proposed Meeting Agenda Items:

1. U.S. Arctic Policy Review.

2. Report of the Arctic Research Commission.

3. IARPC Program Initiative—Study of Environmental Arctic Change.

4. Implementation of Program Initiatives in FY 2002–2006.

Charles E. Myers,

Head, Interagency Arctic Staff, Office of Polar Programs.

[FR Doc. 01–6127 Filed 3–12–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR Part 19, ''Notices, Instructions, and Reports to Workers: Inspection and Investigations''.

2. *Current OMB approval number:* 3150–0044.

3. *How often the collection is required:* As necessary in order that adequate and timely reports of radiation exposure be made to individuals involved in NRC-licensed activities.

4. *Who is required or asked to report:* Licensees authorized to receive, possess, use, or transfer material licensed by the NRC.

5. *The number of annual respondents:* 6,000.

6. *The number of hours needed annually to complete the requirement or request:* 43,037 reporting hours.

7. *Abstract:* Title 10 of the Code of Federal Regulations, Part 19, requires licensees to advise workers on an annual basis of any radiation exposure they may have received as a result of NRC-licensed activities or when certain conditions are met. These conditions apply during termination of the worker's employment, at the request of a worker, former worker, or when the worker's employer (the NRC licensee) must report radiation exposure information on the worker to the NRC. Part 19 also establishes requirements for instructions by licensees to individuals participating in licensed activities and options available to these individuals in connection with Commission inspections of licensees to ascertain compliance with the provisions of the Atomic Energy Act of 1954, as amended, Title II of the Energy Reorganization Act of 1974, and regulations, orders and licenses thereunder regarding radiological working conditions.

The worker should be informed of the radiation dose he or she receives because: (a) That information is needed by both a new employer and the individual when the employee changes jobs in the nuclear industry; (b) the individual needs to know the radiation dose received as a result of an accident or incident (if this dose is in excess of the 10 CFR Part 20 limits) so that he or she can seek counseling about future work involving radiation, medical attention, or both, as desired; and (c) since long-term exposure to radiation may be an adverse health factor, the individual needs to know whether the accumulated dose is being controlled within NRC limits. The worker also needs to know about health risks from occupational exposure to radioactive materials or radiation, precautions or procedures to minimize exposure, worker responsibilities and options to report any licensee conditions which may lead to or cause a violation of Commission regulations, and individual radiation exposure reports which are available to him.

Submit, by May 14, 2001, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike, Room O–1F23, Rockville, MD. OMB clearance requests are available at the NRC worldwide web site (*http://www.nrc.gov/NRC/PUBLIC/OMB/index.html*). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E 6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 7th day of March, 2001.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–6170 Filed 3–12–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–317–50, 50–318 and 72.8]

Calvert Cliffs Nuclear Power Plant, Inc., Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert Cliffs Independent Spent Fuel Storage Installation; Notice of Consideration of Approval of Direct and Indirect Transfer of Renewed Facility Operating Licenses and Materials License and Conforming Amendments and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 and 72.50 approving the direct transfer of Renewed Facility Operating Licenses Nos. DPR–53 and DPR–69 for Calvert Cliffs Nuclear Power Plant (Calvert Cliffs), Unit Nos. 1 and 2, and Materials License No. SNM–2505 for the Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI) currently held by Calvert Cliffs Nuclear Power Plant, Inc. (CCNPPI), as the owner and licensed operator. The direct transfer would be to a new limited liability company, Calvert Cliffs Nuclear Power Plant, LLC (CCNPP LLC). CCNPP LLC will be an indirect subsidiary of a new holding company, currently referred to as New Controlled, which will be formed as a result of a corporate realignment of CCNPPI's ultimate parent, Constellation Energy Group, Inc. (CEG). The Commission is also considering approving associated indirect license transfers to the extent such would be effected by the realignment, or by Virgo Holdings, Inc. (Virgo), an indirect wholly owned subsidiary of The Goldman Sachs Group, Inc., acquiring a certain voting interest in New Controlled. The Commission is further considering amending the licenses for administrative purposes to reflect the proposed direct transfer. The facility and ISFSI are located in Calvert County, Maryland.

According to an application for approval filed by CCNPPI, CCNPP LLC would assume the assets and associated liabilities of CCNPPI, including the facility and ISFSI, following approval of the proposed transfer of the licenses, and would become the owner and operator of Calvert Cliffs and the ISFSI. No physical changes to the facility or ISFSI or operational changes are being proposed in the application. In addition, a new holding company, New Controlled, will be formed over CCNPP LLC, and Virgo may acquire up to a 17.5% voting interest in that company. The Commission is not considering at this time approving any indirect license transfers that may be associated with Virgo acquiring an additional voting interest beyond 17.5% in New Controlled.

The proposed amendments would replace references to CCNPPI in the licenses with references to CCNPP LLC.

Pursuant to 10 CFR 50.80 and 72.50, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and will approve an application for an indirect transfer if the Commission determines the underlying transaction effectuating the indirect transfer will not affect the qualifications of the holder of the license, and in both cases if the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

Before issuance of the proposed conforming license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or the license of an ISFSI which does no more than conform the license to reflect the transfer action involves respectively no significant hazards consideration or no genuine issue as to whether the health and safety of the public will be significantly affected. No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By April 2, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon: Jay E. Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: OGCLT@NRC.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by April 11, 2001, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated December 20, 2000, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the

ADAMS Public Electronic Reading Room link at the NRC Web site *(http:www.nrc.gov).*

Dated at Rockville, Maryland this 5th day of March 2001.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Acting Section Chief, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–6173 Filed 3–12–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–320]

In the Matter of GPU Nuclear, Inc., Metropolitan Edison Company, Jersey Central Power & Light Company, and Pennsylvania Electric Company, (Three Mile Island Nuclear Station, Unit No. 2); Order Approving Application Regarding Merger of GPU, Inc., and FirstEnergy Corp.

I

Metropolitan Edison Company (Met Ed) owns 50 percent, Jersey Central Power & Light Company (JCP&L) owns 25 percent, and Pennsylvania Electric Company (Penelec) owns 25 percent of the Three Mile Island Nuclear Station, Unit No. 2 (TMI–2), located in Dauphin County, Pennsylvania. GPU Nuclear, Inc. (GPUN) maintains the facility on behalf of the owners.

Met Ed, JCP&L, and Penelec are electric utilities that are engaged principally in the sale and distribution of electric energy in Pennsylvania and New Jersey in accordance with rates authorized by the respective public utilities commissions. GPUN, Met Ed, JCP&L, and Penelec, which are all subsidiaries of GPU, Inc., together hold Facility Possession-Only License No. DPR–73 for the TMI–2, issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) pursuant to 10 CFR part 50 on September 14, 1993.

II

Pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.80, GPUN and FirstEnergy Corp. (FE) jointly filed an application dated September 26, 2000, which was supplemented by submittals dated September 27, November 9, November 14, 2000 and February 7, 2001 (collectively herein referred to as the application), requesting the Commission's approval to the indirect transfer of the TMI–2 license in connection with the proposed corporate merger involving GPU, Inc. and FE. The applicants informed the Commission that GPU, Inc. the parent holding company of GPUN, Met Ed, JCP&L, and Penelec, is planning to be merged with and into FE. FE will remain as the surviving corporation in this transaction.

Upon consummating the merger, FE will become a registered holding company under the Public Utility Holding Company Act of 1935, and GPUN, Met Ed, JCP&L, and Penelec, currently subsidiaries of GPU, Inc., will become direct or indirect wholly-owned subsidiaries of FE. No physical changes to the TMI–2 facility or operational changes are being proposed in the application. GPUN, the TMI–2 licensee authorized to maintain the facility, and Met Ed, JCP&L, and Penelec, the licensed owners of TMI–2, will continue to be so following the merger. No direct transfer of the license will result from the planned merger. Notice of this request for approval was published in the **Federal Register** on November 30, 2000 (65 FR 71336). No hearing requests or written comments were received.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the application and other information before the Commission, the NRC staff has determined that the proposed merger of GPU, Inc. with and into FE will not affect the qualifications of GPUN, Met Ed, JCP&L, and Penelec as holders of the TMI–2 license, and that the indirect transfer of the license, to the extent effected by the merger, is otherwise consistent with applicable provision of laws, regulations, and orders issued by the Commission subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated March 7, 2001.

III

Accordingly, pursuant to sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect license transfer referenced above is approved subject to the following conditions:

(1) Met Ed, JCP&L, and Penelec, as applicable, shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from Met Ed, JCP&L, or Penelec, respectively, to its proposed direct or indirect parent or to any affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of the subject licensee's consolidated net utility plant, as recorded on the respective licensee's books of account; and

(2) should the merger of GPU, Inc. and FE not be completed by March 1, 2002, this Order shall become null and void, provided, however, upon application and for good cause shown, such date may be extended.

IV

For further details with respect to this Order, see the initial application dated September 26, 2000, and supplemental submittals dated September 27, November 9, November 14, 2000, and February 7, 2001 and the Safety Evaluation dated March 7, 2001, which are available for inspection at the Commission's Public Document Room, U.S. Nuclear Regulatory Commission, One White Flint North, Room 0–1 F21, 11555 Rockville Pike, Rockville, MD 20852–2738, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site *(http://www.NRC.gov).*

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 7th day of March 2001.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–6171 Filed 3–12–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–146]

In the Matter of GPU Nuclear, Inc., and Saxton Nuclear Experimental Corporation (Saxton Nuclear Experimental Facility); Order Approving Application Regarding Merger of GPU, Inc., and FirstEnergy Corp.

I

Saxton Nuclear Experimental Corporation (SNEC) is the owner of the Saxton Nuclear Experimental Facility (SNEF). Metropolitan Edison Company (Met Ed), Jersey Central Power & Light Company (JCP&L), and Pennsylvania Electric Company (Penelec), electric utilities that are engaged principally in the sale and distribution of electric energy in Pennsylvania and New Jersey in accordance with rates authorized by the respective public utilities commissions, are the sole shareholders of SNEC. SNEC is a non-profit corporation that is not engaged in the

sale and distribution of electric energy. GPU Nuclear, Inc. (GPUN), which maintains SNEF, and SNEC hold Amended Facility License No. DPR–4 for SNEF issued by the U.S. Nuclear Regulatory Commission (NRC or the Commission) pursuant to 10 CFR part 50 on November 15, 1961.

II

Pursuant to section 184 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.80, GPUN and FirstEnergy Corp. (FE) jointly filed an application dated September 26, 2000, which was supplemented by submittals dated September 27, November 9, November 14, December 4, 2000, February 7, February 19, and February 20, 2001 (collectively herein referred to as the application), requesting the Commission's approval of the indirect transfer of the license for SNEF in connection with the proposed corporate merger of GPU, Inc. and FE. The applicants informed the Commission that GPU, Inc. the parent holding company of GPUN, Met Ed, JCP&L, and Penelec, is planning to be merged with and into FE. FE will remain as the surviving corporation in this transaction.

Upon consummating the merger, FE will become a registered holding company under the Public Utility Holding Company Act of 1935, and GPUN, Met Ed, JCP&L, and Penelec, currently subsidiaries of GPU, Inc., will become direct or indirect wholly-owned subsidiaries of FE. No physical changes to SNEF or operational changes are being proposed in the application. GPUN, the licensee authorized to maintain the facility, and SNEC, the licensee that owns SNEF, will continue to be so following the merger with Met Ed, JCP&L, and Penelec, remaining as the shareholders of SNEC. No direct transfer of the license will result from the planned merger. Notice of this request for approval was published in the **Federal Register** on December 4, 2000 (65 FR 75735). No hearing requests or written comments were received.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted in the application and other information before the Commission, the NRC staff has determined that the proposed merger of GPU, Inc. with and into FE will not affect the qualifications of GPUN and SNEC as holders of the SNEF license, and that the indirect transfer of the license, to the extent effected by the merger, is otherwise consistent with applicable provisions of laws, regulations, and orders issued by the Commission subject to the conditions set forth herein. These findings are supported by a Safety Evaluation dated March 7, 2001.

III

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the application regarding the indirect license transfer referenced above is approved subject to the following condition:

Should the merger of GPU, Inc. and FE not be completed by March 1, 2002, this Order shall become null and void, provided, however, upon application and for good cause shown, such date may be extended.

IV

For further details with respect to this Order, see the initial application dated September 26, 2000, the supplemental submittals dated September 27, November 9, November 14, December 7, 2000, February 7, February 19, and February 20, 2001, and the Safety Evaluation dated March 7, 2001 , which are available for public inspection at the Commission's Public Document Room, U.S. Nuclear Regulatory Commission, One White Flint North, Room 0–1 F21, 11555 Rockville Pike, Rockville , MD 20852–2738, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site *(http://www.NRC.gov).*

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 7th day of March 2001.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–6172 Filed 3–12–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of March 12, 19, 26, April 2, 9, 16, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of March 12, 2001

Monday, March 12, 2001

1:25 p.m.
Affirmation Session (Public Meeting) (If needed)
1:30 p.m.
Discussion of Management Issues (Closed-Ex. 2)

Week of March 19, 2001—Tentative

Thursday, March 22, 2001

10:25 a.m.
Affirmation Session (Public Meeting) (If needed)
10:30 a.m.
Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting) (Contact: John Larkins, 301–415–7360)

This meeting will be webcast live at the Web address—*www.nrc.gov/live.html.*

Week of March 26, 2001—Tentative

There are no meetings scheduled for the Week of March 26, 2001.

Week of April 2, 2001—Tentative

There are no meetings scheduled for the Week of April 2, 2001.

Week of April 9, 2001—Tentative

Monday, April 9, 2001

1:30 p.m.
Briefing on 10 CFR Part 71 Rulemaking (Public Meeting) (Contacts: Naiem Tanious, 301–415–6103; David Pstrak, 301–415–8486)

Tuesday, April 10, 2001

10:25 a.m.
Affirmation Session (Public Meeting) (If needed)
10:30 a.m.
Meeting on Rulemaking and Guidance Development for Uranium Recovery Industry (Public Meeting) (Contact: Michael Layton, 301–415–6676)

Week of April 16, 2001—Tentative

There are no meetings scheduled for the Week of April 16, 2001.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

Contact person for more information: David Louis Gamberoni (301) 415–1651.

ADDITIONAL INFORMATION: By a vote of 5–0 on March 5 and 6, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Consolidated Edison Co. of New York and Entergy Companies. Transfer of Licenses for Indian Point 1 & 2 Nuclear Plants.

Petitions to Intervene; Request for Suspension of Proceeding; Requests for Access to Confidential Documents and for Additional Time to Submit Issues'' be held on March 6, and one less than on week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smi/schedule.htm.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: March 8, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–6301 Filed 3–9–01; 11:01 am]

BILLING CODE 7590–01–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Board Meeting: April 13, 2001—Arlington, VA

Discussion of using multiple lines of evidence to increase confidence in the performance assessments of the proposed Yucca Mountain repository for high-level radioactive waste and spent nuclear fuel; what approaches might be taken to develop those multiple lines of evidence; and the degree to which those lines of evidence might be independent of performance assessment.

Pursuant to its authority under section 5051 of Public Law 100–203, Nuclear Waste Policy Amendments Act of 1987, on Friday, April 13, 2001, an ad hoc panel of the Nuclear Waste Technical Review Board (Board) will meet in Arlington, VA, to discuss the ways in which multiple lines of evidence might be used to increase confidence in the performance assessments of the proposed Yucca Mountain repository for high-level radioactive waste and spent nuclear fuel. The meeting is open to the public. An opportunity for public comment will be provided. The Board is charged by Congress with reviewing the technical and scientific validity of activities undertaken by the Department of Energy (DOE) related to civilian radioactive waste management.

The meeting will be held at the Arlington Hilton Hotel; 950 North Stafford Street; Arlington, VA 22203. The telephone number for the hotel is 703–528–6000; the fax number is 703–812–5127. The meeting will begin at 8:30 a.m.; it is scheduled to end at 3:30 p.m.

The meeting will begin with a presentation by a representative of the Office of Civilian Radioactive Waste Management in DOE on work already completed or under way to develop multiple lines of evidence. Members of the Board's *ad hoc* panel, several experts from DOE, and three outside consultants retained by the Board will then make short presentations of their views on how multiple line of evidence might be developed and used to increase confidence in the performance assessments of the proposed Yucca Mountain repository. The rest of the meeting will be devoted to informal discussion of various issues associated with developing multiple lines of evidence.

A block or rooms has been reserved at the Arlington Hilton Hotel. When making a reservation, please state that you are attending the Nuclear Waste Technical Review Board meeting. For more information, contact the NWTRB, Dr. Daniel Metlay, Senior Professional Staff; 2300 Clarendon Boulevard, Suite 1300; Arlington, VA 22201–3367; (tel) 703–235–4473; (fax) 703–235–4495; (e-mail) metlay@nwtrb.gov.

The Nuclear Waste Technical Review Board, created by Congress in the Nuclear Waste Policy Amendments Act of 1987, evaluates the technical and scientific validity of activities undertaken by the Secretary of Energy related to managing the disposal of the nations's spent nuclear fuel and high-level radioactive waste. In the same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, to determine its suitability as the location of a potential repository for the permanent disposal of spent nuclear fuel and high-level radioactive waste.

Dated: March 8, 2001.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 01–6128 Filed 3–12–01; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–447 OMB Control No. 3235–0504]

Request For Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 19b–4(e) and Form 19b–4(e).

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 19b–(e) permits a self-regulatory organization (''SRO'') to immediately list and trade a new derivative securities product so long as such product is in compliance with the criteria of Rule 19b–4(e) under the Securities Exchange Act of 1934(''Act''). However, in order for the Commission to maintain an accurate record of all new derivative securities products traded through the facilities of SROs and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e), it is necessary that the SRO maintain, on-site, a copy of Form 19b–4(e) under the Act. Rule 19b–4(e) requires SROs to file a summary form, Form 19b–4(e), and thereby notify the Commission, within five business days after the commencement of trading a new derivative securities product. In addition, the Commission reviews SRO compliance with Rule 19b–4(e) through its routine inspections of the SROs.

The collection of information is designed to allow the Commission to maintain an accurate record of all new derivative securities products traded through the facilities of SROs and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e).

The respondents to the collection of information are self-regulatory organizations (as defined by the Act), including national securities exchanges and national securities associations.

Ten respondents file an average total of 100 responses per year, which corresponds to an estimated annual response burden of 100 hours. At an average cost per burden hour of $47.50, the resultant total related cost of compliance for these respondents is $4,750 per year (100 burden hours multiplied by $47.50/hour=$4,750).

Written comments are invited on (a) Whether the proposed collection 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: March 6, 2001.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24889; File No. 812–12372]

Allianz Life Insurance Company of North America, et al.

March 9, 2001.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for an order of approval under Section 26(b) and order of exemption under Sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''1940 Act'').

Applicants: Allianz Life Insurance Company of North America (''Allianz Life''), Allianz Life Variable Account A (''Allianz Account A''), Allianz Life Variable Account B (''Allianz Account B''), Preferred Life Insurance Company of New York (''Preferred Life'') and Preferred Life Variable Account C (''Preferred Life Account C''). Allianz Life and Preferred Life are collectively referred to as ''Insurance Company Applicants.'' Allianz Account A, Allianz Account B and Preferred Life Account C are collectively referred to as ''Separate Account Applicants,'' and together with the Insurance Company Applicants are referred to as ''Applicants.''

SUMMARY OF THE APPLICATION: The Applicants request an order of approval to permit the substitution of shares of the Franklin Templeton Variable Insurance Products Trust's (the ''Trust'') Templeton Pacific Growth Securities Fund (the ''Pacific Growth Fund'' or the ''Replaced Fund'') with shares of the Trust's Templeton International Securities Fund (the ''International Fund'' or the ''Substituting Fund'') and to permit certain in-kind redemptions and purchases of the portfolio securities of these funds and the combination of subaccounts in connection with the substitution.

Filing Date: Applicants filed an application on December 21, 2000. Applicants represent that they will file an amended and restated application during the notice period to conform to the representations set forth herein.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 28, 2001, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., 20549–0609. Applicants, c/o Joan E. Boros, Jorden Burt Boros Cicchetti & Johnson, LLP, 1025 Thomas Jefferson Street, NW., Suite 400 East, Washington, DC 20007–0806, and c/o Lynn Stone, Blazzard, Grood & Hasenauer, P.C., 943 Post Road East, P.O. Box 5108, Westport, Connecticut 06881.

FOR FURTHER INFORMATION CONTACT: Harry Eisenstein, Senior Counsel, or Keith Carpenter, Branch Chief, Division of Investment Management, Office of Insurance Products, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the Commission, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Allianz Life was organized under the laws of the state of Minnesota in 1896. Allianz Life offers fixed and variable life insurance and annuities and group life, accident and health insurance. Allianz Life is licensed to do direct business in 49 states and the District of Columbia. Allianz Life is a wholly-owned subsidiary of Allianz Versicherungs AG Holding.

2. Preferred Life was organized under the laws of the state of New York. Preferred Life offers annuities and group life, group accident and health insurance and variable annuity products. Preferred Life is licensed to do business in six states, including New York and the District of Columbia. Preferred Life is a wholly-owned subsidiary of Allianz Life Insurance Company of North America, which is a wholly-owned subsidiary of Allianz Versicherungs AG Holding.

3. Allianz Account A is a segregated asset account of Allianz Life. Allianz Account A was established by Allianz Life on May 31, 1985, under Minnesota insurance laws. Allianz Account A is used to fund certain life insurance policies issued by Allianz Life. Allianz Account A is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Allianz Account A is registered as a unit investment trust under the 1940 Act.

4. Allianz Account B is a segregated asset account of Allianz Life. Allianz Account B was established by Allianz Life on May 31, 1985, under Minnesota insurance laws. Allianz Account B is used to fund certain variable annuity contracts issued by Allianz Life. Allianz Account B is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Allianz Account B is registered as a unit investment trust under the 1940 Act.

5. Preferred Life Account C is a segregated asset account of Preferred Life. Preferred Life Account C was established by Preferred Life on February 26, 1988 under New York insurance laws. Preferred Life Account C is used to fund certain variable annuity contracts issued by Preferred Life. Preferred Life Account C is divided into several subaccounts, each of which invests in and reflects the investment performance of a specific underlying registered investment company or portfolio thereof. Preferred Account C is registered as a unit investment trust under the 1940 Act.

6. The segregated asset accounts support certain variable annuity contracts and variable life policies (collectively, the ''Contracts'') issued by the Insurance Company Applicants. Under the Contracts, the Insurance Company Applicants reserved the right to substitute one of the variable investment options with another variable investment option after

appropriate notice. Moreover, the Insurance Company Applicants are entitled to limit further investment in a variable investment option if the respective Insurance Company Applicants deem the variable investment option inappropriate. Thus, the Contracts permit the Insurance Company Applicants to substitute the respective class of shares of the Replaced Fund with the corresponding class of shares of the Substituting Fund.

7. The Trust was organized as a Massachusetts business trust on April 26, 1988. The Trust includes a number of funds, including the Replaced fund and the Substituting Fund. Shares of the Replaced fund are sold to the Separate Account Applicants for the purpose of funding the Contracts. The Pacific Growth Fund is managed by Franklin Advisers, Inc. (''FAI'') and Templeton Asset Management Ltd.—Hong Kong branch (''TAM Hong Kong'') is the sub-adviser. Neither FAI nor TAM Kong is affiliated with the Applicants. Templeton investment Counsel, Inc. (''TIC'') manages the International Fund. TIC is not affiliated with the Applicants. The Trust currently offers two classes of shares for the Pacific Growth Fund and the International Fund. The Class 1 shares and Class 2 shares represent proportionate interests in each fund's assets and are identical except that the Class 2 shares bear the expense of the Class 2 distribution plan. The Trust is registered as an open-end management investment company under the 1940 Act its shares are registered as securities under the Securities Act of 1933.

8. The Applicants have determined that due to the fact that the Replaced Fund (i) has diminished in size, apparently due to lack of interest, (ii) has had a negative performance history and higher expense ratios, and (iii) has been subject to excessive market timing, it would be best for the respective Insurance Company Applicants and the Owners to substitute the shares of the Replaced Fund with shares of another mutual fund or portfolio having similar objectives. Accordingly, Applicants request the Commission's approval to effect the substitution of the respective class of shares of the Replaced Fund with a corresponding class of shares of the Substituting Fund (the ''Substitution'').

9. For the Class 1 shares of the Pacific Growth Fund held on behalf of their respective Separate Account Applicants at the close of business on the date selected for the Substitution, the Insurance Company Applicants will redeem those shares for cash or in-kind. Simultaneously, the Insurance Company Applicants, on behalf of their respective Separate Account Applicants, will place a purchase order for Class 1 shares of the International Fund so that each purchase will be for the exact amount of the redemption proceeds, which may be partly or wholly-in kind. The Insurance Company Applicants will act likewise, on behalf of their respective Separate Account Applicants with respect to the Class 2 shares of the Replaced and Substituting Funds. Accordingly, at all times monies attributable to Contract owners (''Owners'') then invested in the Replaced Fund will remain fully invested and will result in no change in the amount of any Owner's contract value, death benefit or investment in the applicable Separate Account Applicant. Moreover, by substituting corresponding classes of shares of the Replaced and Substituting Funds, the Owners who were subject to a 12b–1 distribution plan will continue to be subject to such plan. Those Owners who were not subject to a 12b–1 distribution plan will not be subject to such plan after the Substitution.

10. In connection with the redemption of all shares of the Replaced Fund, it is anticipated that the replaced Fund will incur brokerage fees and expenses in connection with such redemption. To alleviate that potential impact, the redemption will be effected partly for cash and partly for portfolio securities redeemed ''in-kind.'' The Trust has informed Applicants that it will cooperate with Applicants to effect the redemptions partly in-kind and in cash. In addition, Applicants will use the in-kind and cash redemption proceeds to purchase shares of the Substituting Fund. In effecting the in-kind redemptions and transfers, the Trust has informed the Applicants that it will comply with the requirements of Rule 17a–7 under the 1940 Act and the procedures established thereunder by the Board of Trustees of the Trust.

11. As noted above, the portfolio securities received from the in-kind redemption will be used together with the cash proceeds to purchase the shares of the Substituting Fund. The Applicants have determined that partially effecting the redemption of shares of the Replaced fund in-kind is appropriate, based on the similarity of certain types of the portfolio securities that may be held by the Replaced Fund and the Substituting Fund. The Trust has advised the Applicants that the valuation of any in-kind transactions will be made on a basis consistent with the normal valuation procedures of the Replaced fund and that of the Substituting Fund.

12. The full net asset value of the redeemed shares held by the Separate Account Applicants will be reflected in the Owner's contract values following the Substitution. The Applicants represent that the Owners will not bear any expenses for the Substitution so that the full net asset value of redeemed shares of the Replaced fund held by the Separate Account Applicants will be reflected in the Owners' contract values following the Substitution.

13. The Trust is fully advised of the terms of the Substitution. Applicants anticipate that until the Substitution occurs, the Trust will conduct the trading of portfolio securities in accordance with the investment objectives and strategies stated in the Replaced Fund's prospectuses and in a manner that provides for the anticipated redemptions of shares held by the Separate Account Applicants.

14. Applicants have determined, based on advice of counsel familiar with insurance laws, that the Contracts allow the Substitution as described in the application, and that the transactions can be consummated as described therein under applicable insurance laws and under the Contracts. These contractual provisions have also been disclosed in the prospectus or statements of additional information relating to the Contracts. In addition, prior to effecting the Substitution, Applicants will have complied with any regulatory requirements they believe are necessary to complete the transactions in each jurisdiction where the Contracts are qualified for sale.

15. Owners will not directly or indirectly incur any expense, including brokerage expenses, as a result of the Substitution, and the rights or obligations of the Insurance Company Applicants under the applicable Contracts will not be altered in any way. The proposed Substitution will not have any adverse tax consequences to Owners. The proposed Substitution will not cause Contract fees and charges currently being paid by existing Owners to be greater after the proposed Substitution than before the proposed Substitution. The proposed Substitution will not be treated as transfers for the purpose of assessing transfer charges. The Insurance Company Applicants will not, with respect to shares substituted, exercise any right it may have under the Contracts to impose additional restrictions on transfers for a period of thirty-one days from the mailing of the a notice of the Substitution (the ''Notice'') to the Owners (the ''Free Transfer Period''). In addition, such a transfer will not be counted as a transfer request under any contractual provisions of the Contracts that limit the

number of transfers that may be made without charge.

16. The Insurance Company Applicants have supplemented the prospectuses for the Contracts to reflect the Substitution. Within five days after the Substitution, the Insurance Company Applicants will send to Owners the Notice which will identify the shares of the Replaced Fund that have been eliminated and the shares of the Replaced Fund that have been eliminated and the shares of the Substituting Fund that have been substituted. The Insurance Company Applicants will include in such mailing the applicable prospectus supplement for the Contracts of the Separate Account Applicants describing the Substitution. For those Contracts that already include the Substituting Fund as an underlying variable investment option, the Insurance Company Applicants do not intend to mail a copy of the prospectus for the substituting Fund to the Owners, because they already will have received a copy of those prospectuses in the ordinary course. For those Contracts that do not include the Substituting Fund, the applicable Insurance Company Applicants will have amended the applicable registration statement and will provide a copy of the prospectus supplement of the Contract and the prospectus of the Substituting Fund with the notice. Owners will be advised in the Notice that for a period of thirty-one days from the mailing of the Notice, Owners may transfer all assets, as substituted, to any other available subaccount without charge or limitation, and such transfers will not be counted toward any applicable limitation on transfers.

17. The annual operating expenses of the Replaced Fund and the Substituting Fund as of December 31, 2000 as a percentage of average daily net assets are as follows:

[In percent]

	Class 1 shares		Class 2 shares	
	Pacific growth fund	International fund	Pacific growth fund	International fund
Advisory and Fund Administrative Charges	1.00	.78	1.00	.78
Distribution Expenses	.00	.00	.25	.25
Other Expenses	.10	.09	.10	.09
Total Expenses	1.10	.87	1.31	1.12

18. As of December 31, 2000, the Replaced Fund and the Substituting Fund had the following net assets:

[In millions]

Class 1 shares		Class 2 shares	
Pacific growth fund	International fund	Pacific growth fund	International fund
$50.0	$776.5	$.3	$187.1

19. Applicants represent that the Insurance Company Applicants do not, and will not for three years, receive any direct or indirect benefit from the Substituting Fund or its adviser (or the adviser's affiliates) that exceeds the amount it had received from the Replaced Fund, its adviser, and/or the adviser's affiliates, including 12b–1, shareholder service, administration or other service fees, revenue sharing or other arrangement, either with specific reference to the Substituting Fund or as part of an overall business arrangement.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act provides that ''[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the [Commission] shall have approved such substitution.'' Section 26(b) of the 1940 Act was enacted as part of the Investment Company Act Amendments of 1970. Prior to the enactment of these amendments, a depositor of a unit investment trust could substitute new securities for those held by the trust by notifying the trust's security holders of the substitution within five (5) days after the substitution. In 1966, the Commission, concerned with the high sales charges then common to most unit investment trusts and the disadvantageous position in which such charges placed investors who did not want to remain invested in the substituted security, recommended that Section 26 be amended to require that a proposed substitution of the underlying investments of a trust receive prior Commission approval.

2. Applicants represent that the purposes, terms, and conditions of the Substitution are consistent with the principles and purposes of Section 26(b) and do not entail any of the abuses that Section 26(b) is designed to prevent. Owners will be assessed no charges whatsoever in connection with the Substitution and their annual fund expense ratios are expected to decrease. In addition, to the extent an Owner does not wish to participate in the Substitution, he or she will have thirty one days to transfer to any other option available under the relevant Contract prior to the Substitution and after the Substitution without any transfer fee. Moreover, as described below, Applicants assert that the Owners will be substituted into a Substituting Fund whose investment objectives, policies and expenses are substantially similar or identical in all material respects to those of the Replaced Fund.

3. Applicants submit that the Substitution does not present the type of costly forced redemption or other harms that Section 26(b) was intended to guard against and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act and assert the following in support of this contention:

(a) The Substitution will continue to fulfill Owners' objectives and risk expectations, because the investment objectives of the Pacific Growth Fund are substantially similar to those of the International fund;

(b) After receipt of the Notice informing an Owner of the Substitution, an Owner may request that his or her assets be reallocated to another subaccount at any time during the Free Transfer Period. The Free Transfer Period provides sufficient time for Owner to consider their reinvestment options;

(c) The Substitution will be at net asset value of the respective shares, without the imposition of any transfer or similar charge;

(d) Neither the Owners, the Replaced Fund nor the Substituting Fund will bear any cost of the Substitution, and accordingly, the Substitution will have no impact on the Owners' Contract values;

(e) The Substitution will in no way alter the contractual obligations of the respective Insurance Company Applicants or the rights and privileges of Owners under the Contracts:

(f) The Substitution will in no way alter the tax benefits to Owners; and

(g) The Substitution is expected to confer certain economic benefits on Owners by virtue of enhanced asset size and lower expenses, as described above.

4. Applicants contend that the Substituting Fund and the Replaced Fund share similar investment objectives. The Pacific Growth Fund and the International Fund seek to provide long-term capital growth. The Pacific Growth Fund pursues its objectives by investing primarily in common stocks of Pacific Rim companies and under normal conditions at least 65% of its total assets in equity securities that trade in Pacific Rim markets, including those in emerging markets. The International Fund pursues its objectives by investing at least 65% of its total assets in equity securities of companies located outside the U.S., including those in emerging markets. The manager for each of these funds employs the same investment philosophy of bottom-up, value-oriented, long-term selection of portfolio securities. Thus, both funds invest primarily in equity securities of companies located outside the U.S. and employ the same investment selection strategy. Moreover, Morningstar, Inc. classifies the Pacific Growth and International Funds as large capitalization stock funds.

5. Applicants assert that the primary difference between the Pacific Growth Fund and the International Fund is their concentration in a particular region. As of September 30, 2000, the International Fund invested approximately 57% in European issuers and approximately 21% in Asian issuers. As of September 30, 2000, the Pacific Growth Fund invested 65% in Asian issuers. The Applicants do not believe that these differences are significant, particularly because of the lack of interest in the Pacific Growth Fund, as shown in its smaller size, and the more concentrated regional focus of the Pacific Growth Fund is likely to be a factor in its lower performance. The Applicants also considered that Owners likely invest in the Pacific Growth Fund as a means to diversify their assets into foreign equity securities. The International Fund will also enable Owners to achieve this diversification goal. Accordingly, Applicants believe that the International Fund is a suitable replacement for Owners to continue their investment in foreign equity securities.

6. Applicants state that the Insurance Company Applicants have specifically determined that the Substituting Fund is an approximate investment vehicle for Owners who have allocated value to the Replaced Fund and that the Substitution will be consistent with Owners' investment objectives.

7. Applicants assert that the fees and expenses of the Substituting Fund have historically been less than those of the Replaced Fund and, accordingly, that the proposed Substitution poses no concerns in connection with the fees and expenses that will arise therefrom.

8. Applicants assert that the Substituting Fund has significantly more assets than the Replaced Fund. It is expected that the lower expense ratios should continue as a result of the significantly greater assets of the Substituting Fund.

9. Applicants state that the returns of the Substituting Fund have consistently been substantially higher than the returns of Replaced Fund. While there is no guarantee that past performance will continue, Applicants state that the Substitution is not expected to give rise to diminution in performance or other adverse effects on Contract values.

10. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of the persons described above from purchasing any security or other property from such registered investment company. Section 2(a)(3) of the 1940 Act defines the term ''affiliated'' person. The proposed Substitution will be effected in part through in-kind redemptions and purchases and may be deemed to entail the indirect purchase of shares of the related Substituting Fund with portfolio securities of the Replaced Fund, and the indirect sale of securities of the Replaced Fund for shares of the Substituting Fund.

11. In addition, the Insurance Company Applicants, as appropriate, will combine the subaccount investing in the Pacific Growth Fund and the continuing subaccount investing in the International Fund. Applicants state that the Insurance Company Applicants could be said to be transferring unit values between their respective subaccounts and that, the transfer of unit values could be said to involve purchase and sale transactions between subaccounts that are affiliated persons. Applicants further state that the sale and purchase transactions between subaccounts could be said to come within the scope of Section 17(a)(1) and 17(a)(2) of the 1940 Act, respectively, and that the Substitution involving the combination of subaccounts may require an exemption from Section 17(a) of the 1940 Act, pursuant to Section 17(b) of the 1940 Act.

12. Section 17(b) of the 1940 Act provides that the commission may grant an Order exempting transactions prohibited by Section 17(a) of the 1940 Act upon application if evidence establishes that:

(a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve over-reaching on the part of any person concerned;

(b) The proposed transaction is consistent with the investment policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and

(c) The proposed transaction is consistent with the general purposes of the 1940 Act.

The Applicants represent that the terms of the proposed transactions, as described in this Application, are: reasonable and fair, including the consideration to be paid and received; do not involve over-reaching; are consistent with the policies of the Replaced Fund of the Trust; and are consistent with the general purposes of the 1940 Act.

13. Applicants represent that for all the reasons stated above with regard to Section 26(b) of the 1940 Act, the Substitution is reasonable and fair. It is expected that existing and future Owners will benefit from the consolidations of assets in the Substituting Fund. The transactions effecting the Substitution will be effected in conformity with Section 22(c) of the 1940 Act and Rule 22c–1 thereunder. Moreover, the partial in-kind redemptions of portfolio securities of the Replaced Fund will be effected in conformity with Rule 17a–7 under the 1940 Act and the procedures of the Trust established pursuant to Rule 17a–7. Applicants contend that the Owners' interests after the Substitution, in practical economic terms, will not differ in any measurable way from such interests immediately prior to the Substitution and that, in each case, the consideration to be received and paid is, therefore, reasonable and fair.

Applicants' Conclusions

Applicants submit, for all the reasons stated herein, that their requests meet the standards set out in Sections 6(c), 17(b) and 26(b) of the 1940 Act and that

an Order should, therefore, be granted. Accordingly, Applicants request an Order pursuant to Sections 6(c), 17(b) and 26(b) of the 1940 Act approving the substitution of shares of the Pacific Growth Fund with shares of the International Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–6352 Filed 3–12–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC—24887; 813–290]

BMO Nesbitt Burns Corp.; Notice of Application

March 7, 2001.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1949 (the ''Act'') exempting applicant from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (f), (g), and (j)), section 30 (except for certain provisions of paragraphs (a), (b), (e), and (h)), and sections 36 through 53, and the rules and regulations under the Act.

SUMMARY OF APPLICATION: Applicant requests an order to exempt certain limited partnerships or limited liability companies (each a ''Partnership'') formed for the benefit of key employees of BMO Nesbitt Burns Corp. (''BMO NB'') and its affiliates from certain provisions of the Act. Each Partnership will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act.

Applicant: BMO NB.

FILING DATES: The application was filed on August 18, 2000, and amended on February 12, 2001. Applicant has agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 2, 2001, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, D.C. 20549–0609. Applicant, Michael G. Zeiss, BMO Nesbitt Burns Corp., 430 Park Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT: Maura S. McNulty, Senior Counsel, at (202) 942–0621, or May Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. BMO NB, a Delaware corporation, is a full-service investment bank serving the financial needs of individual, institutional, corporate and government clients. BMO NB is an indirect subsidiary of the Bank of Montreal, Canada's oldest bank with over Cdn. $200 billion in assets. BMO NB and its affiliates (as defined in rule 12b–2 of the Securities Exchange Act of 1934 (the ''Exchange Act'')) are referred to in this notice collectively as the ''BMO NB Group.''

2. Applicant proposes to establish Partnerships for the benefit of eligible current and former key employees, officers, directors, and persons on retainer of the BMO NB Group. The Partnerships would be part of a program designed to create investment opportunities that are competitive with those at other financial institutions and brokerage and investment banking firms for employees and to facilitate the recruitment of high caliber employees. Participation in a Partnership will be voluntary.

3. Each Partnership will be a limited partnership, or, alternatively, a limited liability company, business trust or other entity organized under the laws of Delaware or another state. The BMO NB Group also may form a parallel Partnership organized under the laws of Canada to create the same investment opportunities for its Canadian employees as would be available to its U.S. employees. The Partnerships will be operated in accordance with their respective limited partnership agreements or other organizational documents (each, a ''Partnership Agreement''). Each Partnership will be formed as an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act, and will operate as a closed-end, management investment company which may be diversified or non-diversified.

4. Each Partnership will be managed, operated and controlled by its general partner, managing member of similar entity (''General Partner''). Each General Partner will be an entity within the BMO NB Group. The General Partner or another entity in the BMO NB Group will serve as investment adviser (''Investment Adviser'') to the initial Partnership. The Investment Adviser will be (a) registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''), (b) exempt from Advisers Act registration requirements by virtue of section 203(b)(3) of the Advisers Act, or (c) excluded from the definition of investment adviser under the Advisers Act because it is a bank or a bank holding company (as defined in the Bank Holding Company Act of 1956). Any Investment Adviser of any future Partnership also will be an entity within the BMO NB Group.

5. With respect to some or all Partnerships, the Investment Adviser will be permitted to delegate certain of its responsibilities relating to the acquisition, management and disposition of Partnership investments to one or more sub-investment advisers, each of which will be an entity within the BMO NB Group (''Affiliated Subadviser'') and registered under the Advisers Act if required under applicable law. If the Investment Adviser elects to enter into any side-by-side investment with an unaffiliated entity, the Investment Adviser will be permitted to engage as sub-investment adviser the unaffiliated entity (''Unaffiliated Subadviser'' and, together with the Affiliated Subadviser, a ''Subadviser'') responsible for the management of such side-by-side investment.

6. Interests in the Partnerships (''Interests'') will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (''Securities Act''), or Regulation D under the Securities Act, and will be sold only to (a) current and former key employees, officers, directors, and persons on retainer of the BMO NB Group (''Eligible Employees''), (b) qualified family members who are spouses, parents, children, spouses of children, brothers, sisters, and grandchildren of Eligible Employees (''Qualified Family

Members''), or (c) trusts or other investment vehicles established solely for the benefit of Eligible Employees or Qualified Family Members ''Qualified Investment Vehicles'' and, collectively with Qualified Family Members, ''Qualified Participants'').

7. Qualified Investment Vehicles must meet the standards for an ''accredited investor'' under rule 501(a) of Regulation D. Eligible Employees and their Qualified Family Members will be individuals who satisfy certain financial sophistication standards, will be capable of understanding and evaluating the merits and risks of participation in a Partnership and able to bear the economic risk of such participation, including a complete loss of his or her investment. Eligible Employees and Qualified Family Members will meet the standards for an ''accredited investor'' under rule 501(a)(6) of Regulation D, except that a maximum of 35 Eligible Employees who are sophisticated investors but who do not meet the definition of an accredited investor may become limited partners (''Limited Partners'') if each of them falls into one of the following categories: (a) Eligible Employees who (i) have a graduate degree in business, law or accounting, (ii) have a minimum of five years of consulting, investment banking or similar business experience, and (iii) will have had reportable income from all sources (including any profit shares or bonus) in the calendar year immediately preceding the Eligible Employee's admission as a Limited Partner in excess of $120,000 and will have a reasonable expectation of reportable income of at least $150,000 in the years in which the Eligible Employee invests in a Partnership [1], or (b) Eligible Employees who are ''knowledgeable employees'' as defined in rule 3c–5 under the Act of the Partnership (with the Partnership treated as though it were a ''covered company'' for purposes of the rule).

8. The specific investment objectives and strategies for a particular Partnership will be set forth in the private placement memorandum relating to the Interests offered by the Partnership, and each Eligible Employee and Qualified Participant will receive a copy of the private placement memorandum in connection with their investment in a Partnership. The terms of a Partnership will be fully disclosed to each Eligible Employee at the time the Eligible Employee is invited to participate in the Partnership. Each Partnership will send audited financial statements to the Limited Partners as soon as practicable after the end of its fiscal year. In addition, a report will be sent to each Limited Partner setting forth the information with respect to his or her share of income, gains, losses, credits and other items for federal and state income tax purposes, resulting from the operation of the Partnership during that year.

9. Interests in a Partnership will be non-transferable except with the express consent of the General Partner and then only to Eligible Employees or Qualified Participants. No fee of any kind will be charged in connection with the sale of Interests.

10. BMO NB or an entity within the BMO NB Group, or any Eligible Employee or Qualified Participant designated thereby, may have the right, but not the obligation, to acquire the Interest of a Limited Partner upon the termination of the Limited Partner's employment with an entity within the BMO NB Group with or without cause, including as a result of the death, disability, or voluntary resignation of the Limited Partner, or upon the Limited Partner's bankruptcy. Each private placement memorandum will describe whether the BMO NB Group will be required or have the option to acquire the Interest of a Limited Partner upon the termination of the Limited Partner's employment. In this regard, the purchase price for the Interest will be at least equal to the Interest's fair market value (as determined by the BMO NB Group in good faith and in accordance with its customary valuation procedures).

11. An entity within the BMO NB Group may purchase Interests, which it may offer to new Eligible Employees joining the BMO NB Group after the closing of a Partnership or which it may award to Eligible Employees as bonus or similar compensation. These Interests will be acquired from the Partnership in the same manner of payment, at the same time and at the same price as Interest purchased by Limited Partners. An entity within the BMO NB Group may sell the Interests it has so acquired to any Eligible Employee or Qualified Participant at any time during the life of the Partnership at a price no greater than the net asset value of the Interests on the previous appraisal date as set forth in the Partnership Agreement.

12. The purchase price for Interests may be payable in full upon subscription or in installments as determined by the General Partner. Eligible Employees may be offered the opportunity to acquire Interests pursuant to the arranging of recourse and nonrecourse loans.

13. In an investment program that provides for vesting provisions, such as vesting of interests purchased with the proceeds of loans, an Eligible Employee's Interest at the commencement of the program will be treated as being entirely ''unvested'' and ''vesting'' will occur either through the passage of a specified period of time or upon the occurrence of a specified event. The portion of an Interest that is unvested at the time of an Eligible Employee's employment termination, and the portion that is vested in the event of certain specified events, may be subject to repurchase by a BMO NB Group entity or reallocated to other Limited Partners in the Partnership.

14. No Partnership will acquire any security issued by a registered investment company if, immediately after such acquisition, the Partnership would own more than 3% of the outstanding voting stock of the registered investment company.

15. The Investment Adviser may be paid an advisory fee for its services to a particular Partnership, which may be determined as a percentage of assets under management or aggregate commitments. In addition, an Investment Adviser and/or Subadviser may be entitled to a performance-based fee or ''carried interest.'' [2] The General Partner or the Investment Adviser may charge the Partnership any expenses charged by a Subadviser, legal and accounting fees, administrative expenses and other operating expenses.

16. A Partnership will not borrow from any person if the borrowing would cause any person not named in section 2(a)(13) of the Act to own securities of the Partnership (other than short-term paper). If an entity within the BMO NB Group makes loans to any Partnership or Limited Partner, the lender will be entitled to receive interest at a rate

[1] In addition, such Eligible Employees in this category will not be permitted to invest in any year more than 10% of his or her income from all sources for the immediately precedng year in the aggregate in a Partnership and in all other Partnerships in which that Eligible Employee has previously invested.

[2] A ''carried interest'' is an allocation to the Investment Adviser or Subadviser based on net gains in addition to the amount allocable to the Investment Adviser or Subadviser that is in proportion to its capital contributions, provided, however, that no Unaffiliated Subadviser will beneficially own any outstanding securities of any Partnership. Depending on whether the Investment Adviser or Subadviser is registered as an investment adviser under the Advisers Act any carried interest will be charged only if permitted by rule 205–3 under the Advisers Act (in the case of an Investment Adviser or Subadviser registered under the Advisers Act) or will comply with section 205(b)(3) of the Advisers Act (with the Partnership treated as though it were a ''business development company'' solely for the purpose of that section) in the case of an Investment Adviser or Subadviser not registered under the Advisers Act.

which is permissible under applicable banking or tax regulations, provided that the rate will be no less favorable to the borrowers than the rate obtainable on an arm's length basis. Any indebtedness of the Partnership will be the debt of the Partnership and without recourse to the Limited Partners.

Applicant's Legal Analysis

1. Section 6(b) of the Act provides, in part, that the SEC will exempt employees' securities companies from the provisions of the Act to the extent that the exemption is consistent with the protection of investors. Section 6(b) provides that the SEC will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested, and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' security company, in relevant part, as any investment company all of whose securities are beneficially owned: (a) By current or former employees, or persons on retainer, of one or more affiliated employers; (b) by immediate family members of such persons; or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits an investment company that is not registered under section 8 of the Act from selling or redeeming its securities. Section 6(e) provides that, in connection with any order exempting an investment company from any provision of section 7, certain provisions of the Act, as specified by the SEC, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicant requests an order under sections 6(b) and 6(e) of the Act for an exemption from all provisions of the Act except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (f), (g) and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations thereunder.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicant requests an exemption from section 17(a) to permit each Partnership to: (a) Purchase portfolio investments from or sell portfolio securities to BMO NB, or any other affiliated person of a Partnership, or an affiliated person thereof (an ''Affiliated Entity''), on a principal basis; (b) purchase interests or property in a company or other investment vehicle in which BMO NB, or an Affiliated Entity, already owns securities, or, where such company or other investment vehicle is otherwise affiliated with BMO NB or a Partnership; (c) sell, put or tender, or grant options in securities or interest in a company or other investment vehicle back to such entity, where that entity is affiliated with BMO NB or an Affiliated Entity; (d) participate as a selling security holder in a public offering that is underwritten by BMO NB or an Affiliated Entity or in which BMO NB or an Affiliated Entity acts as a member of the underwriting or selling group; (e) invest in companies, partnerships or other investment vehicles offered, sponsored or managed by BMO NB or an Affiliated Entity (referred to collectively as ''BMO NB Sponsored Vehicles''), or to purchase securities from BMO NB Sponsored Vehicles; (f) invest in securities of, or lend money to entities for which BMO NB or an Affiliated Entity has performed investment banking or other services and from which they may have received fees; and (g) purchase securities that are underwritten by BMO NB or an Affiliated Entity (including a member of a selling group) on terms at least as favorable to the Partnership as those offered to investors other than affiliated persons of BMO NB.

4. Applicant states that an exemption from section 17(a) is consistent with the protection of investors and is necessary to promote the purpose of the Partnerships. Applicant states that the Limited Partners in each Partnership will be fully informed of the extent of the Partnership's dealings with affiliated persons and, as professionals employed in the investment banking and financial services businesses, will be able to understand and evaluate the attendant risks. Applicant asserts that the community of interest among the Limited Partners and BMO NB Group will provide the best protection against any risk of abuse. Applicant acknowledges that the requested relief will not extend to any transactions between a Partnership and an Unaffiliated Subadviser or an affiliated person of he Unaffiliated Subadviser, or between a Partnership and any person who is not an employee, officer or director of BMO NB or is an entity outside of the BMO NB Group and is an affiliated person of the Partnership as defined in section 2(a)(3)(E) of the Act (''Advisory Person'') or any affiliated person of such person.

5. Section 17(d) of the Act and rule 17d–1 prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of such person or principal underwriter, acting as principal, from participating in any joint arrangement with the company unless authorized by the SEC. Applicant requests relief to permit affiliated persons of each Partnership, or affiliated persons of any of these persons, to participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement or profit-sharing plan in which the Partnership or a company controlled by the Partnership is a participant. Applicant acknowledges that the requested relief will not extend to any transaction in which an Unaffiliated Subadviser or an Advisory Person or an affiliated person of either has an interest.

6. Applicant believes that the participation by the Partnerships in transactions in which affiliated co-investors specified in condition 3 below (''Affiliated Co-Investors'') are also participants is consistent with the provisions, policies and purposes of the Act and is otherwise consistent with the rule 17d–1 standards.

7. Applicant argues that the concern that permitting joint investments with BMO NB or another BMO NB affiliated person, on the one hand, and a Partnership, on the other, might lead to disadvantageous treatment of the Partnership will be mitigated by the fact that BMO NB is acutely concerned with its relationships with the key employees who invest in the Partnerships. Applicant notes that each Partnership will be established to attract and retain highly qualified employees. Applicant states that the Partnerships were conceived and will be organized by the persons who will be investing, directly or indirectly, or are eligible to invest, in the Partnerships, and the Partnerships will not be promoted by persons outside the BMO NB Group, nor will the General Partner seek to profit from fees for investment advice or from the distribution of securities. Finally, applicant contends that the possibility that a Partnership may be disadvantaged by the participation of an affiliate in a transaction will be minimized by compliance with the lockstep procedures described in condition 3 below. Thus, Applicant believes it is unlikely that an Affiliated Co-Invester will enter into a transaction with a Partnership with the intention of disadvantaging the Partnership.

8. Section 17(f) designates the entities that may act as investment company custodians, and rule 17f–1 imposes certain requirements when the custodian is a member of a national securities exchange. Applicant requests an exemption from section 17(f) and rule 17f–1 to permit an entity within the BMO NB Group to act as custodian of Partnership assets without a written contract, as would be required by rule 17f–1(a). Applicant also requests an exemption from the rule 17f–1(b)(4) requirement that an independent accountant periodically verify the assets held by the custodian. Applicant believes that, because of the community of interest between the Partnerships and the BMO NB Group and the existing requirements for an independent audit, compliance with these requirements would be unnecessarily burdensome and expensive. Applicant will comply with all other requirements of rule 17f–1.

9. Section 17(g) and rule 17g–1 generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. Applicant requests exemptive relief in the case of any Partnership for which an entity within the BMO NB Group is the General Partner to permit a majority of the board of directors or similar body of the General Partner or the entity controlling the General Partner to take actions and make certain determinations set forth in the rule. Applicant states that, because all the directors of the General Partner will be interested persons, a Partnership could not comply with rule 17g–1 without the requested relief. Each Partnership will comply with all other requirements of rule 17g–1.

10. Section 17(j) and paragraph (b) of rule 17j–1 make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of a registered investment company report personal securities transactions. Applicant requests an exemption from the provisions of rule 17j–1, except for anti-fraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to the Partnerships. The relief requested will extend only to entities within the BMO NB Group and is not requested with respect to any Unaffiliated Subadviser or Advisory Person.

11. Applicant requests an exemption from the requirements in sections 30(a), 30(b) and 30(e) of the Act, and the rules under those sections, that registered investment companies prepare and file with the SEC and mail to their shareholders certain periodic reports and financial statements. Applicant contends that the forms prescribed by the SEC for periodic reports have little relevance to the Partnerships and would entail administrative and legal costs that outweigh any benefit to the Limited Partners. Applicants requests exemptive relief to the extent necessary to permit each Partnership to report annually to its Limited Partners. Applicant also requests an exemption from section 30(h) to the extent necessary to exempt the General Partner of each Partnership and any other persons who may be deemed to be members of an advisory board of a Partnership from filing Forms 3, 4 and 5 under section 16(a) of the Exchange Act with respect to their ownership of Interests in the Partnership. Applicant asserts that, because there will be no trading market and the transfers of Interests will be severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) of the Act and rule 17d–1 thereunder (the ''Section 17 Transactions'') will be effected only if the Investment Adviser determines that: (a) The terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Limited Partners and do not involve overreaching of the Partnership or its Limited Partners on the part of any person concerned; and (b) the transaction is consistent with the interests of the Limited Partners, the Partnership's organizational documents, and the Partnership's reports to its Limited Partners. In addition, the Investment Adviser will record and preserve a description of the Section 17 Transactions, the Investment Adviser's findings, the information or materials upon which the Investment Adviser's findings are based, and the basis for those finding. All such records will be maintained for the life the Partnership and at least two years thereafter, and will be subject to examination by the SEC and its staff.[3]

2. In connection with section 17 Transactions, the Investment Adviser will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for the Partnerships, or any affiliated person of such a person, promoter, or principal underwriter.

3. The Investment Adviser will not invest the funds of any Partnership in any investment in which an Affiliated Co-Investor has acquired or proposes to acquire the same class of securities of the same issuer, where the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which the Partnership and Affiliated Co-Investor are participants, unless any such Affiliated Co-Investor, prior to disposing of all or part of its investment: (a) Gives the Investment Adviser sufficient, but not less than one day's, notice of its intent to dispose of its investment; and (b) refrains from disposing of its investment unless the Partnership has the opportunity to dispose of the Partnership's investment prior to or concurrently with, on the same terms as, and pro rata with the Affiliated Co-Investor. The term ''Affiliated Co-Investor'' means any person who is: (a) An affiliated person of the Partnership; (b) BMO NB or an entity within the BMO NB Group; (c) an officer or director of BMO NB or any other entity within the BMO NB Group; (d) a company, partnership, or other investment vehicle offered, sponsored, or managed by BMO NB or by any other entity within the BMO NB Group; (e) any entity with respect to which BMO NB or another entity within the BMO NB Group provides management, investment management or similar services as manager, investment manager, or general partner or in a similar capacity; or (f) a company in which an officer, director or member of the General Partner acts as an officer, director, or general partner, or has a similar capacity to control the sale or other disposition of the company's securities. The restrictions contained in this condition, however, will not be deemed to limit or prevent the disposition of an investment by an Affiliated Co-Investor: (a) To its direct

[3] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

or indirect wholly-owned subsidiary, to any company (a ''Parent'') of which the Affiliated Co-Investor is a direct or indirect wholly-owned subsidiary, or to a direct or indirect wholly-owned subsidiary of its Parent; (b) to Qualified Family Members of the Affiliated Co-Investor or a trust established for any Affiliated Co-Investor or any such family member; (c) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the Exchange Act; (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the Exchange Act and rule 11Aa2–1 under the Exchange Act; (e) when the securities are government securities as defined in section 2(a)(16) of the Act; (f) when the investment is comprised of securities that are listed on or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities; or (g) when the Affiliated Co-Investor is an entity with respect to which BMO NB or any other entity within the BMO NB Group provides management, investment management or similar services as manager, investment manager, or general partner or in a similar capacity, if BMO NB or such entity does not have the actual investment discretion over the sale or disposition of the entity's securities.

4. Each Partnership and its General Partner and Investment Adviser will maintain and preserve, for the life of each such Partnership and at least two years thereafter, the accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the Limited Partners, and each annual report of such Partnership required to be sent to the Limited Partners, and agree that all such records will be subject to examination by the SEC and its staff.[4]

5. The General Partner will send or cause to be sent to each Limited Partner who had an interest in the Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by the Partnership's independent accountants. At the end of each fiscal year, the General Partner will make or cause to be made a valuation of all of the assets of the Partnership as of such fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, as soon as practicable after the end of each fiscal year of each Partnership, the General Partner of such Partnership will send or cause to be sent a report to each person who was a Limited Partner at any time during the fiscal year then ended, setting forth the tax information necessary for the preparation by the Limited Partners of federal and state income tax returns and a report of the investment activities of the Partnership during such year.

6. In any case where purchases or sales are made by a Partnership from or to an entity affiliated with a Partnership by reason of a 5% or more investment in such entity by a BMO NB Group director, officer, or employee, such individual will not participate in the Investment Adviser's determination of whether or not to effect the purchase or sale.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–M

[4] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44043; File No. SR–CBOE–00–61]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Inc. to Change the Capitalization Transfer Fee Applicable to Designated Primary Market Makers

March 6, 2001

I. Introduction

On November 22, 2000, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change regarding application of the fee for changes in ownership of Designated Primary Market Makers (''DPMs''). On December 4, 2000, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] On December 13, 2000, the Exchange submitted Amendment No. 2 to the proposed rule change.[4] On January 10, 2001, the Exchange submitted Amendment No. 3 to the proposed rule change.[5] The proposed rule change, as amended, was published in the **Federal Register** on January 22, 2001.[6] The Commission received 21 comment letters on the proposed rule change. Nineteen were submitted by DPMs, one by members of the CBOE Modified Trading System (''MTS'') Committee for the years 2000 and 2001, and one was submitted by a CBOE member.[7] This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

In 1999, CBOE instituted a floor-wide DPM system and awarded the appointment of options classes to DPMs at no cost in exchange for a long-term commitment to the Exchange and a fee on subsequent changes of ownership (''transfer fee''). The transfer fee, contained in Interpretation and Policy .02 to CBOE Rule 8.89, is imposed on DPMs that undergo changes in their

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Steve Youhn, Attorney, CBOE, to Deborah Flynn, Senior Special Counsel, Division of Market Regulation (''Division''), SEC, dated December 1, 2000.

[4] *See* letter from Steve Youhn, Attorney, CBOE, to Deborah Flynn, Senior Special Counsel, Division, SEC, dated December 8, 2000.

[5] *See* letter from Steve Youhn, Attorney, CBOE, to Deborah Flynn, Senior Counsel, Division, SEC, dated December 28, 2000.

[6] *See* Securities Exchange Act Release No. 43839 (January 12, 2001), 66 FR 6715 (''Notice'').

[7] *See* letters to Jonathan G. Katz, Secretary, SEC, from Lawrence J. Blum, dated November 24, 2000; William O'Keefe, *et al*, members of the 2000 and 2001 MTS Committees, dated February 7, 2001; Daniel F. O'Neill and Peter J. Gancer, Managing Members, Midway Securities, LLC, dated February 9, 2001; Marc Brown, Brown Trading Group, dated February 8, 2001; Lee E. Tenzer, Chairman, Lee E. Tenzer Trading Company, dated February 9, 2001; Daniel Koutris, *et al,* Managing Members, KFT DPM, LLC, dated February 9, 2001; John Henkel, Managing Member, Midwest Partners, LLC, dated February 8, 2001; Michael G. Vitek, President, Botta Capital Management, LLC, dated February 12, 2001; Mark Wolicki, *et al,* RTB Derivatives, LLC, dated February 5, 2001; Bradley Griffith, Managing Member, Specialists DPM, LLC, dated February 8, 2001; Boris Furman, Managing Member, Furman Trading, LLC, dated February 9, 2001; David Barclay, General Counsel, LaRocque Trading Group, LLC, dated February 9, 2001; Ethan Schwartz, Managing Member, Schwartz Trading Group LLC, dated February 9, 2001; Keith Hoglund, *et al,* General Partners, Rathunas Trading, L.L.C., dated February 8, 2001; Joseph Feldman, Manager, Bridgeport DPM, LLC, received February 15, 2001; J. Monville Henige, President, O'Connor Specialists, LLC, on behalf of the members of O'Connor Specialists, LLC; Rathunas LLC, StoneHedge, Securities, LLC, TradeNet, LLC, Option Funding Group, LP, Prime Markets, LLC, Callahan DPM, LLC, Hiland Capital, LLC and O'Connor and Company, LLC, dated February 8, 2001. Copies of the comment letters are available in the Commission's Public Reference Room.

capitalizations during a determined five-year period.[8]

Currently, the transfer fee is assessed on those DPMs that have been allocated one or more options classes that have traded on the CBOE prior to June 29, 1999, so long as the allocation of the pre-June 29, 1999 options class was effected subsequent to June 29, 1999. The Exchange currently defines a change in capitalization broadly to include any sale, transfer, or assignment of any ownership interest in the DPM or any change in the DPM's capital structure, voting authority, or distribution of profits or losses.

The Exchange has proposed to modify the transfer fee to permit a DPM to add new capital, to make small changes in ownership or profit sharing, to replace a capital partner, or to merge with other DPMs (where all pre-existing partners continue their participation in the new DPM), without triggering the transfer fee. A transfer fee would, however, continue to be assessed in cases where a principal of a DPM exists or significantly reduces its participation in its DPM operation.

Accordingly, CBOE proposes to modify Interpretation .02 to its Rule 8.89 to allow the MTS Committee to analyze each proposed transaction to determine the transfer fee should be applied. To that end, a non-exhaustive list of factors to be considered in making the determination would be added to the Interpretation. The Exchange also proposes to change the existing formula contained in Interpretation .02(c) to CBOE Rule 8.89 for determining the amount of the transfer fee. The Exchange also proposes to amend section (f) of Rule 8.89 to allow the Exchange's Board of Directors, whether by appeal or on its own initiative, to review the application and amounts of transfer fees.

Finally, CBOE has proposed to make the effective date of this proposal retroactive to October 20, 2000, in order to avoid assessing the original transfer fee on the sole transaction that occurred since its inception.

III. Summary of Comments

The majority of the letters received by the Commission supported the proposed rule change.[9] All of the favorable or supporting commenters asserted that the proposed rule change would permit the Exchange greater flexibility in administering the fee, would allow DPMs to structure their businesses and bolster their capital without incurring fees, and would preserve the original purposes the fee was meant to serve. One commenter argued that the SEC should deny the Exchange's classification of the filing as effective upon filing.[10]

IV. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] In particular, the Commission believes that the proposal is consistent with section 6(b)(5) of the Act,[12] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest.

Pursuant to the proposed changes, the transfer fee would no longer be imposed automatically for all transfers of interest in a DPM. Rather, each transfer of interest would be reviewed by the MTS Committee, which would determine whether the transfer fee should be imposed. The MTS Committee is composed of the Vice-Chairman of the Exchange, the Chairman of the Market Performance Committee, and nine members. By rule, the elected members must include specific numbers of DPMs, floor brokers and market makers.[13] The members of the MTS Committee are subject to the requirements of CBOE's recusal standards.[14] The MTS Committee would evaluate the transfer in light of the non-exhaustive list of factors proposed to be added to Interpretation .02 to CBOE Rule 8.89. The Commission believes that the MTS Committee's recusal standards and membership structure should protect the integrity and fairness of its decisions.

The Commission believes that these proposed changes should permit the Exchange more flexibility in the administration of the fee, while preserving its original purposes.[15] The Commission believes that the procedure for review by the MTS Committee should help to ensure the fee is applied only on those occasions necessary to preserve the interests originally identified by the Exchange, such as those instances where one or more principals in the DPM exit or significantly reduce their participation in the DPM operation, and not where DPMs only seek changes to their capital structure in their efforts to remain competitive. The factors enumerated in the Interpretation should provide appropriate guidance to the MTS Committee for this purpose.

The addition of procedures for review by the Board of Directors of the Exchange is also appropriate. Under the proposal, the Board of Directors could review the MTS Committee's decision as to whether to impose the fee, and the amount assessed. An aggrieved party, as described in Chapter XIX of the Exchange's rules, may request a review by the Board of Directors, or the Board on its own initiative may decide to review the MTS Committee's decision. The Commission finds that these changes are appropriate because they provide additional safeguards to ensure that the decisions of the MTS Committee are fair, equitable, and in accordance with the purposes of the transfer fee.

The Commission further finds that CBOE's proposed changes to the formula for assessing the amount of the fee are reasonable. These changes would, in general, serve to simplify the calculation of the fee, and reduce the amounts of any fees imposed. By setting forth a formula in its rules, the Exchange should be able to ensure that the transfer fee is calculated consistently and applied to all DPMs that are subject to the transfer fee in a reasonable manner. Therefore, the Commission believes that these changes to the formula are consistent with Section 6(b)(4) of the Act.[16] The Commission further notes that keeping the formula in the text of Interpretation .02 to Rule 8.89 should permit any DPM contemplating a change in its capital structure to ascertain what costs may be incurred, which the Commission believes is appropriate.

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[8] *See* Securities Exchange Act Release No. 43186 (August 21, 2000), 65 FR 51880 (August 25, 2000) (order approving current transfer fee).

[9] *See* note 7 *supra.*

[10] *See* Blum letter, note 7 *supra.* The commenter's concern was addressed by the Exchange in Amendment No. 1, which re-classified the filing as submitted pursuant to Section 19(b)(2) of the Act, rather than Section 19(b)(3)(A) of the Act.

[11] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* CBOE Rule 8.82.

[14] *See* CBOE Regulatory Circular RG 96–81 (September 12, 1996).

[15] According to the Exchange, the rule has three primary purposes: (1) to provide an incentive for DPMs to sufficiently capitalize their operations; (2) to recognize that DPMs receive allocations of options classes without paying any consideration, thus the fee is intended to discourage DPMs from profiting from their allocations by transferring interests in their operations; and (3) to assure the DPM has a long-term commitment to the Exchange.

[16] 15 U.S.C. 78f(b)(4).

The Exchange's proposal to make the new transfer fee effective as of October 20, 2000 is reasonable. According to the Exchange, if the proposal is not effective retroactively, only one change in capitalization would be subject to the current transfer fee. The Commission agrees that this result would be inequitable, and therefore believes that it is appropriate to make the new transfer fee effective as of October 20, 2000. In addition, this proposed change should promote uniformity of treatment for all evaluations of transfers of interest in DPMs.

The Commission believes that the rule, as amended, should preserve the original purposes of the transfer fee. Thus, the amended rule should still serve the CBOE's interest in securing long-term commitments to the Exchange, and thereby ensure the orderly and effective operation of the market. Further, the fee should still provide incentives of DPMs to maintain sufficient capital to operate as a DPM, thereby ensuring greater liquidity and investor protection. Finally, the amended transfer fee should serve to compensate the Exchange for the fee allocation of a business that was established by a person or entities other than the DPM when the DPM sells its interest to other parties.

V. Conclusion

For the foregoing reasons, the Commission finds that CBOE's proposal to change the capitalization transfer fee applicable to DPMs is consistent with the requirements of the Act and rules and regulations thereunder.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[17] that the proposed rule change (SR–CBOE–00–61), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

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[17] 15 U.S.C. 78s(b)(2).

[18] 17 CFR 200.30–3(a)(2).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44037; File No. SR–ISE–01–08]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 by the International Securities Exchange LLC, Relating to Listing and Trading of Options on Exchange-Traded Fund

DATE: March 2, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on March 2, 2001, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the ISE. The same day, March 2, 2001, the ISE submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons and to approve the proposal, as amended, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to amend ISE Rules 502, 503 and 504 to adopt listing and maintenance standards for options on Fund Shares (as defined below), as well as to permit the Exchange to trade options on Fund Shares in various exercise price increments. The text of the proposed rule change is available at the ISE or the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The ISE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The purpose of the proposed rule change, as amended, is to provide for the trading of options on shares or other securities (''Fund Shares'') that represent interests in registered investment companies organized as open-end management investment companies, unit investment trusts or similar entities that are principally traded on a national securities exchange or through the facilieis of a national securities association and reported as ''national market'' securities, and that hold portfolios of securities comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities (''Funds''). Fund Shares are issued in exchange for an ''in kind'' deposit of a specified portfolio of securities, together with a cash payment, in minimum size aggregations or multiples thereof (''Creation Units''). The size of the applicable Creation Unit size aggregation is set forth in the Fund's prospectus, and varies from one series of Fund Shares to another, but generally is of substantial size (*e.g.,* value in excess of $450,000 per creation Unit). A fund, generally, will issue and sell Fund Shares in Creation Unit size through a principal underwriter on a continuous basis at the net asset value per share next determined after an order to purchase Fund Shares and the appropriate securities are received. Following issuance, Fund Shares are traded on an exchange like other equity securities, and equity trading rules apply. Likewise, redemption of Fund Shares is made in Creation Unit size and ''in kind,'' with a portfolio of securities and cash exchange for the Fund Shares that have been tendered for redemption.

Generally, options on Fund Shares are proposed to be traded on the Exchange pursuant to the same rules and procedures that apply to trading in options on equity securities.[4] The position, exercise and reporting limits for options on Fund Shares would be the same as those established for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] *See* letter to Heather Traeger, Special Counsel, Division of Market Regulation (''Division''), SEC, from Katherine Simmons, Vice President and Associate General Counsel, ISE, dated March 2, 2001 (''Amendment No. 1''). In Amendment No. 1, the ISE added proposed margin requirements for options on Fund Shares.

[4] Fund Shares are a type of security. The Exchange's proposed change to Rule 502, discussed infra, states: ''securities deemed appropriate for options trading shall include [Fund Shares].'' Accordingly, all of the Exchange's rules referring to ''securities'' would cover Fund Shares unless they were specifically excluded.

options on single stocks.[5] The Exchange will list option contracts covering either 100 or 1000 Fund Shares, or both, depending on the price and volatility of the underlying Fund Shares and the popularity of the options.[6] Options on Fund Shares will be physically-settled and will have the American-style exercise feature used on all standardized equity options.[7] The Exchange is not proposing at this time to list FLEX options on Fund Shares.

The proposed margin requirements for options on fund shares are at the same levels that apply to options generally under ISE Rule 1202,[8] except, with respect to Fund Shares based on a broad-based index or portfolio, minimum margin must be deposited and maintained equal to 100% of the current market value of the option plus 15% of the market value of equivalent units of the underlying security value. Fund Shares that hold securities based upon a narrow-based index or portfolio must have options margin that equals at least 100% of the current market value of the contract plus 20% of the market value of equivalent units of the underlying security value. In this respect, the margin requirements that currently apply to broad-based and narrow-based index options on the NYSE and CBOE.[9]

To accommodate the listing of Fund Shares, the Exchange proposes changes to rule 502 (Criteria for Underlying Securities). The Exchange proposes to list options only on Fund Shares that are principally traded on a national securities exchange or through the facilities of a national securities association and reported as national market securities. In addition, the initial listing standards will require that Fund Shares either: (1) meet the uniform options listing standards currently contained in Rule 502, which include minimum public float, trading volume, and share price of the underlying security,[10] or (2) be available for creation or redemption each business day from or through the Fund in cash or in kind at a price related to net asset value, and the Fund is obligated to issue Fund Shares in a specified aggregate number even if some or all of the securities required to be deposited have not been received by the Fund.[11]

In addition, the proposed initial listing standards require that: (1) Any non-U.S. component stocks of the index or portfolio on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index or portfolio.

The Exchange also proposes to amend Rule 503 (Withdrawal of Approval of Underlying Securities) to establish maintenance standards for Fund Shares. The proposed maintenance standards provide that if a particular series of Fund Shares should cease to trade on an exchange or as national market securities traded through the facilities of a national securities association, there will be no opening transactions in the options on the Fund shares, and all such options will trade on a liquidation-only basis. In addition, the Exchange will consider the suspension of opening transactions in any series of options on Fund Shares if: (1) The options on the Fund Shares fail to meet the uniform equity maintenance standards contained in ISE Rule 503 when the Fund Shares were approved pursuant to the uniform initial listing standards for equities options in ISE Rule 502;[12] (2) following the initial twelve-month period beginning upon the commencement of trading in the Fund Shares on a national securities association there were fewer than 50 record and/or beneficial holders of such Fund Shares for 30 or more consecutive trading days; (3) the value of the index or portfolio of securities on which the Fund Shares are based is no longer calculated or available; or (4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

Finally, the Exchange proposes to amend Rule 504 (Series of Options Contracts Open for Trading). Rule 504 specifies the uniform minimum strike price intervals for options on single stock, which are $2.50 where the strike price is $25 or less, $5 where the strike price is greater than $25 and $10 where the strike price is greater than $200. Options on some Fund Shares, however, currently trade at lesser intervals on other options exchanges. Accordingly, the Exchange proposes to adopt language similar to that contained in Rules of the American Stock Exchange (''Amex'') stating that the interval between strike prices of series of options on Fund Shares will be fixed at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options in first open for trading on the Exchange, or at such intervals as may have been established on another options exchange with respect to options on a particular Fund Share prior to the initiation of trading of such options on the Exchange.[13] This change is necessary to allow the ISE to trade the same options classes as are traded on other options exchanges.

The Exchange believes it has the necessary systems capacity to support

[5] The Exchange's rules in these areas contain requirements with respect to ''any option contract'' and ''any options class'' traded on the Exchange, and therefore options on Fund Shares would be subject to such requirements.

[6] In the event the Exchange lists options covering both 100 and 1000 of the same underlying Fund Shares, the Exchange will assign separate trading symbols to the options and will issue an Information Circular to all its members advising of the trading symbols.

[7] An American-style option may be exercise at any time prior to its expiration.

[8] The Exchange's margin rules cross reference the rules of the Chicago Board Options Exchange (''CBOE'') and New York Stock Exchange (''NYSE'').

[9] The Exchange agrees to modify its margin rules to reflect the proposed margin requirements for options on fund Shares based on broad-based and narrow-based indexes, if necessary. *See* Amendment No. 1, *supra* note 3.

[10] Specifically, Rule 502 requires the underlying security to have a public float of 7,000,000 shares, 2,000 holders, trading volume of 2,400 holders, trading volume of 2,400,000 shares in the preceding 12 months, a share price of $7.50 for the majority of the business days during the three calendar months preceding the date of the selection, and that the issuer of the underlying security is in compliance with the Exchange Act.

[11] This assumes that the authorized creation participant has undertaken to deliver the shares as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalent satisfactory to the fund which underlies the option, as described in the fund prospectus.

[12] Specifically, Rule 503 provides that an underlying security will not meet the Exchange's requirements for continued listing when, among other things: (1) there are fewer than 6,300,000 public-held shares; (2) there were fewer than 1,600 holders; (3) trading volume was less than 1,800,000 shares in the preceding twelve months; or (4) the share price of the underlying security closed below $5 on a majority of the business days during the preceding 6 months.

[13] The Amex currently trades options on a Fund Share called QQQ with a $1.00 interval between strike prices. The release approving the Amex to trade options on Fund Shares states that strike prices ''will be set to bracket the Fund Shares at one point intervals up to a share price of $200.'' *See* Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998). In contrast, CBOE Rule 5.5, Interpretations and Policies .01 sets the minimum strike interval for Fund Shares at $2.50 where the strike price is $200 or less and at $5 where the strike price is more than $200. *See* Securities Exchange Act Release No. 40166 ((July 2, 1998), 63 FR 37430 (July 10, 1998). Finally, the recent release approving Philadelphia Stock Exchange (''PHLX'') to trade options on Fund Shares does not discuss trading intervals. *See* Securities Exchange Act Release No. 43921 (February 2, 2001), 66 FR 9739 (February 9, 2001).

the additional series of options that would result from the introduction of options on Fund Shares, and it has been advised that the Options Price Reporting Authority also will have the capacity to support these additional series.

2. Statutory Basis

The ISE believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [14] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE does not believe that the proposed rule change will place any burdens on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The ISE has not solicited, and does not intend to solicit, comments on this proposed rule change. The ISE has not received any unsolicited written comments from members or other interested parties.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR–ISE–01–08 and should be submitted by April 3, 2001.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of section 6(b)(5).[15] Specifically, the Commission believes that providing for the listing and trading of options on Fund Shares should give investors a better means to hedge their positions in the underlying Fund Shares. Further, the Commission believes that pricing of the underlying Fund Shares may become more efficient and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on Fund Shares likely will engender the same benefits to investors and the market place that exist with respect to options on common stock, thereby serving to promote the public interest and remove impediments to a free and open securities market.[16]

As a general matter, the Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on Fund Shares, can commence trading on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. With regard to position and exercise limits, the Commission finds that it is appropriate to adopt the tiered approach used in setting position and exercise limits for standardized stock options. This approach should serve to minimize potential manipulation and market impact concerns. Accordingly, because options on Fund Shares will be subject to the same regulatory regime as the other options currently traded on the ISE, the Commission believes that adequate safeguard are in place to ensure the protection of investors in options on Fund Shares.

The Commission also believes that it is appropriate to permit the ISE to list and trade options on Fund Shares given that these options must meet specific requirements related to the protection of investors.[17] First, the Exchange's listing and delisting criteria for options on Fund Shares are adequate. With regard to initial listing, the proposal requires that either: (1) The underlying Fund Shares meet the ISE's uniform options listing standards; or (2) the Fund Shares must be available for creation or redemption each business day in cash or in kind from the Fund at a price related to the net asset value, and the Exchange will require that the underlying Fund Shares may be created even though some or all of the securities needed to be deposited have not been received by the Fund.[18] This listing requirement should ensure that there exists sufficient supply of the underlying Fund Shares so that a short call writer, for example, will have the ability to secure delivery of the Fund Shares upon exercise of the option.

The Commission believes the ISE has adequately addressed potential concerns about the ability to produce Fund Shares upon exercise of the option through the adoption of the listing standards set forth above. In particular, options listed pursuant to the uniform options listing standards will have to meet the options maintenance listing standards that require, among other things, that minimum number of Fund Shares be outstanding to continue trading the options. The alternative listing criteria, noted above, should also help to ensure that the underlying Fund Shares will be available upon exercise by requiring the Fund to allow market participants to create Fund Shares even though some or all of the necessary securities needed to be deposited are not available. Although there is no absolute assurance that market participants will go ahead and create Fund Shares in the event a short call writer needs to purchase Fund Shares to meet an exercise notice, it is likely that arbitrage opportunities will create an incentive to do so. Further, in the event there are not enough Fund Shares to meet exercise requirement, as with other

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(5).

[16] In approving this rule, the Commission notes that it has also considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[17] The Commission notes, and ISE has verified, that holders of options on Fund Shares who exercise and receive the underlying Fund Shares must receive, like any purchaser of Fund Shares, a product description or prospectus, as appropriate. Telephone conversation between Katherine Simmons, Vice President and Associate General Counsel, ISE, and Heather Traeger, Special Counsel, Division of Market Regulation, SEC, on March 2, 2001.

[18] *See supra* note 9.

physically-settled equity options, the options Clearing Corporation has rules that would apply to such situation. In addition, the Commission believes it is appropriate for the ISE to set strike prices for both 100 and 1000 shares contracts to bracket the Fund Shares price at one point intervals up to a share price of $200.

Second, the Commission believes that the surveillance standard developed by the ISE for options on Fund Shares is adequate to address the concerns associated with the listing and trading of such securities. Specifically, the ISE has proposed that: (1) Any Fund Share with non-US stocks in the underlying index or portfolio that are not subject to comprehensive surveillance agreements do not in the aggregate represent more than 50% of the weight of the index or portfolio; (2) stocks for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index or portfolio; and (3) stocks for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index or portfolio.

As a general matter, the Commission believes that comprehensive surveillance agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the content of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions. In evaluating the current proposal, the Commission believes that requiring comprehensive surveillance agreements to be in place between the ISE and the primary markets for foreign securities that comprise 50% or more of the weight of the underlying index or portfolio upon which Fund Shares are based, as well as the other conditions discussed above, provides an adequate mechanism for the exchange of surveillance sharing information necessary to detect and deter possible market manipulations. Although the Commission recognizes that up to 50% of the portfolio's value may not be covered by comprehensive surveillance agreements, the other requirements will ensure that a significant percentage of the portfolio is not made up of securities form uncovered countries. Further, as to the domestically-traded Fund Shares themselves and the domestic stocks in the underlying index or portfolio upon which Fund Shares are based, the Intermarket Surveillance Group Agreement will be applicable to the trading of options on Fund Shares.

Finally, the Commission believes that it is appropriate to require minimum margin of 100% of the current market value of the option plus 15% of the market value of the underlying security value (''broad-based margin'') for options on Fund Shares based on a broad-based index or portfolio and for options on Fund Shares which have been approved to date. Moreover, the Commission believes that requiring minimum margin of 100% of the current market value of the option plus 20% of the market value of the underlying security value (''narrow-based margin'') for options on Fund Shares based on a narrow-based index or portfolio is appropriate. The Commission notes that these margin requirements for options on Fund Shares are comparable to margin requirements that currently apply to broad-based and narrow-based index options on the CBOE and NYSE.[19]

The Commission finds good cause for approving the proposed rule change, as amended, (SR–ISE–01–08) prior to the thirtieth day after the date of publication of notice thereof in the **FEDERAL REGISTER**. The Commission notes that the proposed rule change, as amended, is similar to rules previously approved by the Commission for the Amex, CBOE, PHLX, and Pacific Exchange.[20] The Commission also observes that the proposed rule change concerns issues that previously have been the subject of a full comment period pursuant to section 19(b) of the Act.[21] The Commission does not believe that the proposed rule change raises novel regulatory issues that were not addressed in the previous filings. Moreover, the Commission believes that approving the listing and trading of Fund Shares on the ISE will increase industry competitiveness by providing an additional venue for the trading of such issues, to the benefit of the investor. Accordingly, the Commission finds that there is good cause, consistent with section 6(b)(5) of the Act, to approve the proposal, as amended, on an accelerated basis.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[22] that the proposed rule change, as amended, (SR–ISE–01–08) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–6190 Filed 3–12–01; 8:45 am]

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[19] The Commission also notes the ISE will file a proposed rule change to amend its margin rules, if necessary. *See* Amendment No. 1, *supra* note 3.

[20] *See* Securities Exchange Act Release No. 40157 (July 1, 1998), 63 FR 37426 (July 10, 1998) (SR–Amex–96–44); Securities Exchange Act Release No. 43921 (February 2, 2001), 66 FR 9739 (February 9, 2001) (SR–Phlx–00–107); Securities Exchange Act Release No. 40166 (July 2, 1998), 63 FR 37430 (July 10, 1998) (SR–CBOE–97–03); and Securities Exchange Act Release No. 44025 (February 28, 2001).

[21] 15 U.S.C. 78s(b).

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 28895]

Airport Privatization Pilot Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting for public comment on the final application of Niagara Falls International Airport, Niagara Falls, New York.

SUMMARY: On March 5, 2001, the Federal Aviation Administration (FAA) published a notice in the **Federal Register** (66 FR 133366) seeking information and comments from interested parties on the final application by the Niagara Frontier Transportation Authority (NFTA) for participation of Niagara Falls International Airport (IAG) in the Airport Privatization Pilot Program. The deadline for submitting comments is May 4, 2001. In an effort to provide the public the opportunity to comment on the final application, the FAA will conduct a public meeting on Monday, March 19, 2001, at Niagara Falls Community College.

DATES: The public meeting will be held on Monday, March 19, 2001, beginning at 7 p.m.

ADDRESSES: The public meeting will be held in the auditorium of the Niagara County Community College, 3111 Saunders Settlement Road, Sanborn, NY. IAG final application is available for public review in the Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28895, 800 Independence Avenue, SW., Washington, DC 20591. NFTA, the airport sponsor, has also made a copy of the application available at the following locations:

Buffalo & Erie County Public Library, 1 Lafayette Square, Buffalo, New York, 14202, (716) 858–8900

Niagara Frontier Transportation Authority, 181 Ellicott Street, Buffalo, New York, 14203, Attn: Ruth Keating, (716) 855–7398

Earl W. Brydges Public Library, 1425 Main Street, Niagara Falls, New York, 14305, (716) 286–4881

Niagara Falls International Airport, Niagara Falls Boulevard, Niagara Falls, New York, 14304, (716) 297–4494

Written comments on the IAG final application must be delivered or mailed, in quadruplicate, to: the Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. #28895, 800 Independence Avenue, SW., Washington, DC 20591. Written comments must be marked ''Docket No. 28895''. Commenters wishing the FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 28895.'' The postcard will be date stamped and mailed to the commenter. Comments on this Notice may be delivered or examined in room 915G on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. Commenters planning to speak at the public hearing are not required to submit written comments.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis, Compliance Officer, (202–267–8741), Airport Compliance Division (AAS–400), Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Ave. SW, Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Section 149 of the Federal Aviation Administration Authorization Act of 1996, Pub. L. No. 104–264 (October 9, 1996) (1996 Reauthorization Act), added a new § 47134 to Title 49 of the U.S. Code. Section 47134 authorizes the Secretary of Transportation, and through delegation, the FAA Administrator, to exempt a sponsor of a public use airport that has received Federal assistance from certain Federal requirements in connection with the privatization of the airport by sale or lease to a private party. Specifically, the Administrator may exempt the sponsor from all or part of the requirements to use airport revenues for airport-related purposes (upon approval of 65 percent of the air carriers serving the airport and having 65 percent of the landed weight), to pay back a portion of Federal grants upon the sale of an airport, and to return airport property deeded by the Federal Government upon transfer of the airport. Since Niagara Falls International Airport is a general aviation airport without air carrier service, the 65 percent approval of air carriers is not required. The Administrator is also authorized to exempt the private purchaser or lessee from the requirement to use all airport revenues for airport-related purposes, to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

On September 16, 1997, the FAA issued a notice of procedures to be used in applications for exemption under Airport Privatization Pilot Program (62 FR 48693). The notice of procedures and public comments received are available for review in FAA Rules Docket No. 28895.

On June 5, 2000, NFTA filed a final application and selected Cintra Niagra Falls Airport Corporation, USA, as the airport's private operator. Cintra Niagara proposes to lease the airport under a 99-year lease agreement. It plans to market the airport to develop new services such as low cost domestic passenger flights to business and leisure centers, international charters and cargo services. Cintra Niagara will commit $10.1 million in the initial 13 years for the purposes of operating, managing and developing the airport. $1.125 million will be used for operating, marketing and capital improvement costs. The remaining $8.975 million will be used for marketing expenses and to fund the initial five year capital planning period.

The public meeting scheduled for March 19, 2001, will begin at 7 p.m. in the school auditorium of the Niagara County Community College, 3111 Saunders Settlement Road, Sanborn, NY. NFTA, the airport owner, will provide a brief presentation of the privatization initiative followed by public comments on the IAG final application for inclusion in Docket No. 28895 and considered by the FAA in making its decision on the application. American Sign Language interpretative services will be available. Registration for individuals wishing to speak will begin at 6:30 pm directly outside the auditorium. Because the IAG final application is presently before the agency for a decision, the FAA will not be able to discuss the application or the pending agency decision.

Issued in Washington, DC on March 7, 2001.

David L. Bennett,

Director, Office of Airport Safety and Standards.

[FR Doc. 01–6235 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held April 4, 2001, at 10 a.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Ave., SW., Room 827, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Gerri Robinson, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9678; fax (202) 267–5075; e-mail Gerri.Robinson@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on April 4, 2001, at the Federal Aviation Administration, 800 Independence Ave., SW., Room 827, Washington, DC 20590. The agenda will include:

- Review and approval of previous meeting minutes
- Discussion of the fuel tank design concepts

Attendance is open to the interested public but will be limited to the space available. The FAA will arrange teleconference capability for individuals wishing to participate by teleconference if we receive that notification by March 26, 2001. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area will be responsible for paying long distance charges.

The public must make arrangements by March 26, 2001, to present oral statements at the meeting. The public

may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the **FOR FURTHER INFORMATION CONTACT** section 10 calendar days before the meeting.

Issued in Washington, DC, on March 7, 2001.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 01–6232 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Transport Airplane and Engine Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss transport airplane and engine (TAE) issues.

DATES: The meeting is scheduled for March 27–28, 2001, beginning at 8:30 a.m. on March 27. Arrange for oral presentations by March 16.

ADDRESSES: Department of Transportation, 400 7th Street SW., Washington, DC. The meeting will be held in room 3328 on March 27 and in rooms 6332–6336 on March 28.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking, ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, Fax (202) 267–5075, or e-mail at effie.upshaw@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held March 27–28, 2000, in Washington, DC.

The agenda will include:

March 27, 2001, Room 3328

- Opening Remarks
- FAA Report
- Joint Aviation Authorities Report
- Transport Canada Report
- Harmonization Management Team Report
- Executive Committee Report
- Human Factors Harmonization Working Group (HWG) Report
- Seat Test HWG Report
- Design for Security HWG Report
- Flight Guidance System HWG Report
- System Design and Analysis HWG Report
- Engine HWG Report
- Continued Airworthiness Assessment Methodology Working Group report
- Flight Test HWG Report
- Electromagnetic Effects HWG Report
- Powerplant systems HWG Report
- Mechanical Systems HWG Report

March 28, 2001, Rooms 6332–6236

- General Structures HWG Report
- Airworthiness Assurance Working Group Report
- Extended range with Two-Engine Aircraft (ETOPS) Tasking Update
- Ice Protection HWG Report
- Loads & Dynamics HWG Report
- Flight Controls HWG Report
- Avionics Systems HWG Report
- Electrical Systems HWG Report

The Continued Airworthiness Assessment Methodology Working group plans to seek approval of its work plan. The Flight Control and Loads and Dynamics HWG's plan to request ARAC approval of technical reports drafted under the Fast Track Process. The Ice Protection HWG plans to request approval of a proposed operating rule warning flight crews of ice accumulation requiring crew action.

Attendance is open to the public, but will be limited to the availability of meeting room space and telephone lines. Details for participating in the teleconference will be available after March 19 by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area will be responsible for paying long distance charges.

The public must make arrangements by March 16 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistant Executive Director for Transport Airplane and Engine issues or by providing copies at the meeting. Copies of the documents to be presented to ARAC for decision or as recommendations to the FAA may be made available by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting documents, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. Sign and oral interpretation, as well as a listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on March 7, 2001.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 01–6233 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Occupant Safety Issues

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting of the FAA's Aviation Rulemaking Advisory Committee (ARAC) to discuss occupant safety issues.

DATES: The meeting is scheduled for March 29, 2001, beginning at 8:30 a.m. Arrange for oral presentations by March 16.

ADDRESSES: Department of Transportation, 400 7th Street SW., Room 3328, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Effie M. Upshaw, Office of Rulemaking ARM–209, FAA, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–7626, FAX (202) 267–5075, or e-mail at effie.upshaw@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. III), notice is given of an ARAC meeting to be held March 29 in Washington, DC.

The agenda will include:

- Opening Remarks
- FAA Report
- Joint Aviation Authorities Report
- Transport Canada Report
- Executive Committee Report
- Cabin Safety Harmonization Working Group Report

Attendance is open to the public, but will be limited to the availability of meeting room space and telephone lines. Details for participating in the teleconference will be available after March 19 by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington

metropolitan area will be responsible for paying long distance charges.

The public must make arrangements by March 16 to present oral statements at the meeting. Written statements may be presented to the committee at any time by providing 25 copies to the Assistant Executive Director for Occupant Safety issues or by providing copies at the meeting. Copies of the documents to be presented to ARAC for decision or as recommendations to the FAA may be made available by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

If you are in need of assistance or require a reasonable accommodation for the meeting or meeting document, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Sign and oral interpretation, as well as listening device, can be made available if requested 10 calendar days before the meeting.

Issued in Washington, DC on March 7, 2001.

Tony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 01–6234 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 189/ EUROCAE Working Group 53; Air Traffic Services Safety and Interoperability Requirements

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint Special Committee (SC)–189/EUROCAE Working Group (WG)–53 meeting to be held April 2–6, 2001, starting at 9:00 a.m. each day. The meeting will be held at the Portofino Hotel, Portofino Way, Redondo Beach, CA.

The agenda will include: Monday, April 2: Plenary Session Convenes at 9:00 a.m.: (1) Welcome and Introductory Remarks; (2) Review Meeting Agenda; (3) Review Previous Meeting Minutes; (4) Sub-Group and Related Reports; (5) Position Papers Planned for Plenary Agreement; (6) SC–189/WG–53 Co-Chair Progress Report. Tuesday, April 3 through Thursday, April 5: (7) Sub-group Meetings. Friday, April 6: Plenary Session: (8) Introductory Remarks; (9) Review Meeting Agenda; (10) Review of Preliminary Meeting Minutes; (11) Sub-Group and Related Reports; (12) Position Papers Planned for Plenary Agreement; (13) SC–189/WG–53 Co-Chair Progress Report; (14) Other Business; (15) Date and Location of Next Meeting; (16) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9433 (phone), (202) 833–9434 (fax), or by *http://www.rtca.org* (web site). Members of the public may present a written statement to the committee at any time.

Janice L. Peters,

Designated Office.

[FR Doc. 01–6237 Filed 3–2–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 160; Minimum Operational Performance Standards for 406MHz Emergency Locator Transmitters (ELT)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., appendix 2), notice is hereby given for Special Committee (SC)–160 meeting to be held April 3, 2001, starting at 9:00 a.m. The meeting will be held at the RTCA Inc., 1140 Connecticut Ave., NW, Suite 1020, Washington, DC 20036.

The agenda will include: (1) Welcome and Introductory Remarks; (2) Review Meeting Agenda; (3) History of Cospas-Sarsat and Review of new 406.028 MHz frequency recommendation—NOAA; (4) Review and Approve Proposed Change 3 to RTCA DO–204, Paper No. 054–01/SC 160–003, (5) Other Business; (6) Date and Location of Next Meeting; (7) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone); (202) 833–9434 (fax), or by *http://www.rtca.org* (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 5, 2001.

Janice L. Peters,

Designated Official.

[FR Doc. 01–6236 Filed 3–12–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Customs Service

Modification of National Customs Automation Program Test Regarding Reconciliation

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This document announces several changes to the Customs Automated Commercial System (ACS) Reconciliation prototype test. They include a reduction of data required for ''no-change'' Aggregate Reconciliation entries, a new fee-for-service procedure for requesting reports of flagged entries, a modification of the liquidated damages provision, and a new diskette labeling procedure. In addition, the document discusses the continued use of the midpoint interest calculation for Aggregate Reconciliations. Other aspects of the prototype test not affected by the changes announced in this document remain the same.

DATES: The two year prototype testing period commenced on October 1, 1998, and was extended indefinitely starting October 1, 2000. Applications to participate in the prototype will be accepted throughout the duration of the test. The modification of the test's liquidated damages provision and the new diskette labeling procedure set forth in this document are effective on March 13, 2001. The effective date relative to the test's reduced data requirement for no-change Aggregate Reconciliation entries and the fee-for-service procedure for flagged entry reports will be announced soon after publication of this document via an Automated Broker Interface (ABI) administrative message.

ADDRESSES: Written inquiries regarding participation in the prototype test should be addressed to Mr. John Leonard, Reconciliation Team, U.S. Customs Service, 1300 Pennsylvania Ave. NW, Room 5.2A, Washington, D.C. 20229–0001.

FOR FURTHER INFORMATION CONTACT: Mr. John Leonard at (202) 927–0915 or Ms. Sandra Chilcoat at (202) 927–0032.

SUPPLEMENTARY INFORMATION:

Background

Reconciliation, a planned component of the National Customs Automation Program (NCAP), as provided for in Title VI (Subtitle B) of the North American Free Trade Agreement Implementation Act (the NAFTA Implementation Act; Pub. L. 103–182, 107 State. 2057 (December 8, 1993)), is currently being tested by Customs under the Customs Automated Commercial System (ACS) Prototype Test (also referred to as the prototype, test, or prototype test). Customs announced and explained the prototype test in a general notice document published in the **Federal Register** (63 FR 6257) on February 6, 1998, which replaced all previous notices. Clarifications and operational changes were announced in three subsequent **Federal Register** notices published on August 18, 1998 (63 FR 44303), July 21, 1999 (63 FR 39187), and December 29, 1999 (64 FR 73121). A **Federal Register** (65 FR 55326) notice published on September 13, 2000, extended the prototype indefinitely. For application requirements, see 63 FR 6257 and 63 FR 44303. Additional information regarding the prototype can be found at *http://www.customs.gov/recon.*

This document announces additional changes to the prototype. Except for these modifications, all other aspects of the prototype remain the same.

Reconciliation is the process that allows an importer, at the time an entry summary is filed, to identify undeterminable information (other than that affecting admissibility) to Customs and to provide that outstanding information at a later date. The importer identifies the outstanding information by means of an electronic ''flag'' which is placed on the entry summary at the time the entry summary is filed and payment is made. The kinds of information for which an entry summary may be ''flagged'' (for the purpose of later reconciliation) are limited and relate to: (1) value issues; (2) classification issues, on a limited basis; (3) ''9802 issues,'' those concerning value aspects of entries filed under heading 9802, Harmonized Tariff Schedule of the United States (HTSUS); and (4) NAFTA issues, those concerning merchandise entered under the North American Free Trade Agreement (NAFTA). The flagged entry summary (the underlying entry summary) is liquidated for all aspects of the entry except those issues that were flagged. The means of providing the outstanding information at a later date is through the filing of a Reconciliation entry. The flagged issues will be liquidated at the time the Reconciliation entry is liquidated. (See the February 6, 1998, **Federal Register** notice for a more detailed presentation of the basic Reconciliation process.)

Aggregate Reconciliation Entries and Reduced Data Requirements for No-Change Aggregate Reconciliation Entries

Aggregate Reconciliations Generally

The **Federal Register** notice published on February 6, 1998, set forth the two kinds of Reconciliation entries: (1) An Aggregate Reconciliation entry (or Aggregate Reconciliation) contains a list of the underlying entry summaries affected and the aggregate revenue adjustment relative to those underlying entry summaries; (2) the Entry-by-Entry Reconciliation entry (or Entry-by-Entry Reconciliation) shows the individual revenue adjustment for each underlying entry summary covered. In addition, that notice set forth that an Aggregate Reconciliation applies only to entry summaries showing either an increase (upward adjustment) or no change in duties, taxes, and fees. An Entry-by-Entry Reconciliation may include entry summaries that show a decrease (downward adjustment) in the amount of duties, taxes, and fees owed.

The **Federal Register** notice published on August 18, 1998, discussed the components of Aggregate Reconciliations (the Header, Association File, and Summarized Line Data Spreadsheet; the same as for Entry-by Entry Reconciliations) and provided that in cases where a Reconciliation entry is filed with no adjustments to value or other reconcilable issues—that is, merely to satisfy the obligation to file a Reconciliation entry after entry summaries had been flagged, the spreadsheet need not be provided. Importers were cautioned to be mindful of the distinction between true ''no-change'' Reconciliations (no adjustments) and Reconciliations where there are adjustments but no revenue implications. In the latter case, a spreadsheet is required.

The **Federal Register** notice published on July 21, 1999, provided importers the option to report entry summaries with a downward adjustment in duties, taxes, and fees through an Aggregate Reconciliation. These entry summaries must be listed separately from the upward adjusted and no-change entry summaries reported and must be accompanied by a certification that, among other things, waives any claims for refunds relative to these downward adjusted entry summaries.

Current Data Requirement for No-Change Reconciliations

A ''no-change Reconciliation'' is a Reconciliation entry covering only flagged entry summaries that do not show a change or adjustment at the time of Reconciliation (the filing of the Reconciliation entry). This kind of Reconciliation may be filed using either the Aggregate or Entry-by-Entry method. Which method to use for this specific type of Reconciliation depends entirely on the importer's preference and/or software capabilities. These Reconciliations serve merely to ''close out'' flags on entries that were later found to require no adjustments at the time of Reconciliation. As noted above, no spreadsheet is required for this type of Reconciliation. Importers, however, must still provide information regarding the *original* duties, taxes, and fees paid on the underlying entry summaries covered in the Reconciliation when they transmit their Header and Association File via ABI. The Aggregate Reconciliation requires only the aggregate amount of original duties, taxes, and fees paid on the underlying entry summaries covered in the Aggregate Reconciliation entry, while the Entry-by-Entry Reconciliation must show the original amount of duties, taxes, and fees for each individual entry summary covered.

New Reduced Data Requirement for No-Change Aggregate Reconciliations

In order to further simplify the Reconciliation process, Customs will allow importers filing no-change Reconciliations by the Aggregate Reconciliation method to file the Reconciliation entry without the original duty, tax, and fee information. This document announces this modification to the prototype.

These no-change Aggregate Reconciliations, by definition, cannot include entry summaries showing upward or downward adjustments. Importers who wish to take advantage of this option must transmit zeros in the money fields for this type of Reconciliation. Transmission of the Association File is still required. This change will eliminate the redundancy of providing information that has been reported previously to Customs (on the flagged entry summary). It also will eliminate the expenditure of time and effort (by Customs and the trade) required to reconcile instances of disparity between filer (importer or its broker) information and Customs information on no-change Reconciliation entries. Customs believes

that this change will greatly improve the prototype.

Customs emphasizes that this reduced data option is available only for no-change Reconciliations filed via the Aggregate Reconciliation method. ACS is not programmed to accept this type of reduced data, no-change Reconciliation via the Entry-by-Entry Reconciliation method. Therefore, no-change Entry-by-Entry Reconciliations must include the original duty, tax, and fee information for each entry summary covered.

The choice to use the Entry-by-Entry or Aggregate method to report no-change Reconciliations remains at the importer's discretion; however, no-change Reconciliations reported via the Aggregate method must be transmitted as described in this document (zeros in the money fields). Customs strongly encourages importers to take advantage of this streamlined method. ACS is expected to be ready to accept the reduced data, no-change Aggregate Reconciliation entries in February 2001. The exact date will be announced via an ABI administrative message.

Fee-for-Service Procedure for Requesting Reports of Flagged Entries

The tracking and timely reconciliation of flagged entry summaries is the responsibility of the importer (and filer/broker). To assist the importer in this regard, Customs has been providing importers with reports of their flagged entries upon request. Additionally, Customs has been providing importers with monthly reports of flagged entries coming due during the following month (known as the ''Heads-Up Report''). However, due to workload considerations, continued issuance of these flagged entry reports has become unsustainable.

Because Customs believes that a centralized, efficient clearinghouse for providing flagged entry reports is beneficial to both Customs and the Trade, it proposed an Internet-based lookup system in the December 29, 1999, **Federal Register**. This system was not developed but has been replaced with a fee-for-service procedure to be handled by Customs Accounting Services Division in Indianapolis, IN. Thus, this document announces the fee-for-service report procedure as a modification to the prototype. Customs believes that the announced fee-for-service procedure will be more efficient and provide a better product than in the past. Additionally, Customs will be properly reimbursed for manpower and computer time spent downloading and compiling these reports.

The new fee-for-service flagged entry reports are extensions of two reports Customs already provides: the Masterfile Extract and the Liquidation Extract. The Masterfile Extract reports all open bills and unliquidated formal entries. The Liquidation Extract reports all liquidated entries during a given fiscal year. Under the test, both reports will provide, among other things, dates of entry and entry summary; total duties, taxes, and fees paid on a given entry; whether the entry was flagged for reconciliation; and the particular issue or issues for which the entry was flagged (Value, Classification, 9802, NAFTA or a combination of these). Listed entries which do not reflect any flag data either were never flagged or the flags were already closed out on a previously submitted Reconciliation. Since flagged underlying entry summaries for a certain period may be liquidated or unliquidated, importers are encouraged to request both reports to maintain complete records.

Customs expects to be ready to issue these reports with Reconciliation information in February 2001. The exact date will be announced via an ABI administrative message. In the interim, the Reconciliation team will continue to provide the flagged entry reports upon request. When the fee-for-service report system becomes operational, the free reports currently provided by the Reconciliation team, including the ''Heads-Up Report,'' will cease to be issued.

As stated before, the Masterfile Extract will list all open bills and all unliquidated formal entries, and the Liquidation Extract will list all liquidated entries for a given importer number during a given fiscal year (October 1–September 30). Under the new procedure, requests for reports must be in writing on company letterhead and include payment for processing fees. They also must specify the Importer of Record Number (the IRS number).

The fees for Master File Extracts are as follows: $150 for the first importer number; $50 for the second importer number; and $25 for each additional importer number.

The pricing for the Liquidation Extract is separate from the Master File Extract and is as follows: $200 for the first importer number for a given fiscal year, plus $50 for each additional fiscal year requested for that importer number; $100 for the second importer number for a given fiscal year, plus $50 for each additional fiscal year requested for that importer number; and $75 for each additional importer number for a given fiscal year, plus $50 for each additional fiscal year requested relative to those importer numbers.

In addition to requesting reports in letter form, importers can request that Customs furnish a report via computer diskette. If the importer requests that Customs furnish the report on both computer diskette and paper, an additional fee of $50 will be charged. The written request, with payment in the form of a check made payable to the U.S. Customs Service, should be mailed to: U.S. Customs Service, Accounting Services Division, ATTN: Collections Section, 6026 Lakeside Blvd., Indianapolis, IN 46278. Each request requires approximately one week from receipt to process. If further information or assistance is needed to determine charges, please contact Debbie Wolfley at (317) 298–1200, extension 1363.

Modification of the Liquidated Damages Provision

The liquidated damages process for non-filed and late-filed Reconciliation entries was announced in the December 29, 1999, **Federal Register** notice. This document announces a modification of the liquidated damages and mitigation guidelines for non-filed and late-filed Reconciliations.

The guidelines set forth the assessed liquidated damages amounts for each violation type and provide a mitigation amount for each violation, described as the ''Option 1'' amount. An importer may agree to pay the lower Option 1 amount and waive the right to further mitigate the claim below that amount. There are five types of liquidated damages violations under the prototype guidelines: (1) Reconciliation No File; (2) Reconciliation Money No File; (3) Reconciliation Late File; (4) Reconciliation Money Late File; and (5) Reconciliation Late File With Money No File. The new guidelines set forth their descriptions, assessed liquidated damages amounts, and ''Option 1'' amounts.

For administrative convenience, Customs has decided to drop the interest calculation (total duties, taxes, fees, and interest, if applicable, due on Reconciliation x number of days late x 0.1%) set forth in the December 29, 1999, **Federal Register** notice as a component of the Option 1 amount. Instead, the Option 1 amount under the new guidelines will be a flat amount ($100 per entry to a maximum of $500) based on the number of entries filed late. No relief will be afforded until all entries identified on a ''Notice of Penalty or Liquidated Damages'' form (CF–5955A) issued to the importer by Customs are reconciled. These new Option 1 amounts are effective on the date this document is published in the **Federal Register**. All other aspects of

the liquidated damages process announced in the December 29, 1999, notice remain the same.

New Liquidated Damages Guidelines

1. Reconciliation No File

Description: Entry summaries flagged but no Reconciliation filed. Customs will issue a single consolidated liquidated damages claim for all entries fitting this description for a given importer, per month, per surety.

Assessed Liquidated Damages Amount: Total entered value of the underlying entry(ies).

Option 1 Amount: The filing of the Reconciliation entry (or entries) covering the flagged entry summaries listed on the consolidated liquidated damages claim (CF 5955A), with all applicable duties, taxes, fees, and interest owed, will be treated as a petition for relief. Payment of the Option 1 amount will be authorized only upon the proper filing of this Reconciliation, with duties, taxes, fees, and interest. For a consolidated monthly liquidated damages claim covering five or more flagged entry summaries, the Option 1 amount is $500. For consolidated monthly claims involving four or fewer flagged entry summaries, the Option 1 amount is $100 per entry.

2. Reconciliation Money No File

Description: Reconciliation filed timely but without payment of additional duties, taxes, fees, and interest due.

Assessed Liquidated Damages Amount: $1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: Payment of the Option 1 amount will be authorized only after all duties, taxes, fees, and interest due are paid. For claims involving five or more flagged entry summaries, the amount is $500. For claims involving four or fewer flagged entry summaries, the amount is $100 per entry.

3. Reconciliation Late File

Description: Reconciliation filed and paid after the 15-month deadline.

Assessed Amount: $1,000 or double the duties, taxes, fees, and interest, if applicable, due on the Reconciliation, whichever is greater.

Option 1 Amount: For claims involving five or more flagged entry summaries, the amount is $500. For claims involving four or fewer flagged entry summaries, the amount is $100 per entry.

4. Reconciliation Money Late File

Description: Reconciliation filed timely but payment of additional duties, taxes, fees, and interest due submitted late.

Assessed Amount: $1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: For claims involving five or more flagged entry summaries, the amount is $500. For claims involving four or fewer flagged entry summaries, the amount is $100 per entry.

5. Reconciliation Late File with Money No File

Description: Reconciliation filed late, without payment of duties, taxes, fees, and interest due.

Assessed Amount: $1,000 or double the duties, taxes, fees, and interest due on the Reconciliation, whichever is greater.

Option 1 Amount: Payment of Option 1 amount will be authorized only after duties, taxes, fees, and interest due are paid. For claims involving five or more flagged entry summaries, the amount is $500. For claims involving four or fewer flagged entry summaries, the amount is $100 per entry.

New Diskette Labeling Procedure

The **Federal Register** notice of February 6, 1998, announced that, along with the ABI-transmitted Header and Association File, importers must submit line item data in both hard copy and commercial spreadsheet format via diskette. All aspects of the test concerning line item spreadsheets remain the same. This document merely addresses the labeling of the diskettes.

Starting on the date this document is published in the **Federal Register**, importers, per the Bureau of the Census, must label diskettes with the following information: Reconciliation entry number, importer of record number (generally the IRS Tax Identification number), and the calendar year or years covered by the Reconciliation spreadsheet contained on that diskette. For example, regarding the latter bit of information pertaining to calendar year, if the Reconciliation covers a fiscal year's worth of entries that were entered from October 1, 1999, through September 30, 2000, the diskette should be labeled ''1999–2000,'' along with the Reconciliation entry number and the IRS number.

Continued Use of Midpoint Interest Calculation for Aggregate Reconciliations

The use of a midpoint interest calculation method was authorized for Aggregate Reconciliations when the Miscellaneous Trade and Technical Corrections Act of 1999 was signed into law on June 25, 1999. The law included a sunset provision of October 1, 2000. Use of midpoint interest calculation under the test was announced in the July 21, 1999, **Federal Register** notice. On November 9, 2000, the Tariff Suspension and Trade Act of 2000 was signed into law (Pub. L. 106–476; the Act). Under section 1451 of the Act, section 505(c) of the Tariff Act of 1930 (19 U.S.C. 1505(c)), as amended, was amended to remove the sunset provision. Therefore, importers may continue to use the midpoint interest calculation method for Aggregate Reconciliations. Procedures regarding the use of midpoint interest remain the same as described in the July 21, 1999 **Federal Register** notice.

The ACS Reconciliation Prototype Survey

A Reconciliation Prototype survey was published on the Customs web site in order to solicit comments and suggestions from various entities of the trade community (see also **Federal Register** (65 FR 36505) notice published on June 8, 2000. The number of responses to this voluntary survey was minimal in comparison to the volume of importers approved for Reconciliation. A summary of the survey responses will be compiled and published on the Customs web site in the near future.

Dated: January 31, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–6222 Filed 3–12–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATES: The meeting will be held April 11 and 12, 2001.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held on April 11 and 12, 2001, in Room 4600E beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:AS, 1099 14th Street, NW., Washington, DC 20005. Telephone (202) 694–1861 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), that a closed meeting of the Art Advisory Panel will be held on April 11 and 12, 2001, in Room 4600E, beginning at 9:30 a.m., Franklin Court Building, 1099 14th Street, NW., Washington, DC 20005.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552b(c)(3), (4), (6), and (7), and that the meeting will not be open to the public.

Daniel L. Black, Jr.,

Chief, Appeals.

[FR Doc. 01–6213 Filed 3–12–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Art Advisory Panel of the Commissioner of Internal Revenue; Availability of Report of 2000 Closed Meetings

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of availability of report on closed meetings of the Art Advisory Panel.

SUMMARY: The report is now available.

Pursuant to 5 U.S.C. app. I section 10(d), of the Federal Advisory Committee Act; and 5 U.S.C. section 552b, the Government in the Sunshine Act: A report summarizing the closed meeting activities of the Art Advisory Panel during 2000, has been prepared. A copy of this report has been filed with the Assistant Secretary of the Treasury for Management and is now available for public inspection at: Internal Revenue Service, Freedom of Information Reading Room, Room 1621, 1111 Constitution Avenue, NW., Washington, DC 20224.

Requests for copies should be addressed to: Director, Disclosure Operations Division, Attn: FOI Reading Room, Box 388, Benjamin Franklin Station, Washington, DC 20224, Telephone (202) 622–5164, (Not a toll free telephone number).

The Commissioner of Internal Revenue has determined that this document is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. Neither does this document constitute a rule subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

FOR FURTHER INFORMATION CONTACT: Karen Carolan, C:AP:ART, Internal Revenue Service/Appeals, 1099 14th Street, NW., Washington, DC 20005, Telephone (202) 694–1861 (Not a toll free telephone number).

Robert E. Wenzel,

Acting Commissioner of Internal Revenue.

[FR Doc. 01–6212 Filed 3–12–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 66, No. 49

Tuesday, March 13, 2001

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.

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Correction

In notice document 01–4759, beginning on page 12522, in the issue of Tuesday, February 27, 2001, make the following correction:

On page 12524, in the table, in the heading, **TRANSACTIONS GRANTED EARLY TERMINATION** ''02/22/2001'' should read ''02/02/2001''.

[FR Doc. C1–4759 Filed 3–12–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Tuesday,
March 13, 2001

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Determinations of Critical Habitat for the California Red-legged Frog; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN–1018–AG32

Endangered and Threatened Wildlife and Plants; Final Determination of Critical Habitat for the California Red-legged Frog

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), designate critical habitat for the California red-legged frog (*Rana aurora draytonii*) pursuant to the Endangered Species Act of 1973, as amended (Act). A total of approximately 1,674,582 hectares (4,140,440 acres) in Alameda, Butte, Contra Costa, El Dorado, Fresno, Kern, Los Angeles, Marin, Mariposa, Merced, Monterey, Napa, Plumas, Riverside, San Benito, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Tehama, Tuolumne, and Ventura counties, California, is designated as critical habitat.

Critical habitat identifies specific areas that have the physical and biological features that are essential to the conservation of a listed species, and that may require special management considerations or protection. The primary constituent elements for California red-legged frogs are aquatic and upland areas where suitable breeding and nonbreeding habitat is interspersed throughout the landscape, and are interconnected by continuous dispersal habitat. Critical habitat for California red-legged frogs includes those areas possessing all of the primary constituent elements.

Section 7 of the Act prohibits destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicited data and comments from the public on all aspects of the proposed rule and economic analysis. We revised the proposal to incorporate or address new information received during the comment periods.

DATES: This rule becomes effective on April 12, 2001.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, will be available for public inspection, by appointment, during normal business hours at the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W. 2605, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: For general information, and for information about Alameda, Butte, Contra Costa, El Dorado, Fresno, Kern, Marin, Mariposa, Merced, Napa, Plumas, San Joaquin, San Mateo, Santa Clara, Solano, Sonoma, Stanislaus, Tehama, and Tuolumne counties, contact Wayne White, Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W. 2605, Sacramento, California 95825 (telephone 916/414–6600; facsimile 916/414–6712).

For information about Monterey, Los Angeles, San Benito, San Luis Obispo, Santa Barbara, Santa Cruz, and Ventura counties, contact Diane Noda, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2394 Portola Road, Suite B, Ventura, California 93003 (telephone 805/644–1766; facsimile 805/644–3958).

For information about areas in the San Gabriel Mountains of Los Angeles County or Riverside and San Diego counties, contact Jim Bartel, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008 (telephone 760/431–9440; facsimile 760/431–9624).

SUPPLEMENTARY INFORMATION:

Background

The California red-legged frog (*Rana aurora draytonii*) is the largest native frog in the western United States. It is endemic to California and Baja California, Mexico. It is typically found from sea level to elevations of approximately 1,500 meters (m) (5,000 feet (ft)). The California red-legged frog ranges in body length from 40 to 130 millimeters (mm) (1.6 to 5.1 inches (in.)), with adult females attaining a significantly longer body length than males (138 mm (5.4 in.) versus 116 mm (4.6 in.)) (Hayes and Miyamoto 1984). The posterior abdomen and hind legs of adults vary in color, but are often red or salmon pink; the back is characterized by small black flecks and larger irregular dark blotches with indistinct outlines on a brown, gray, olive, or reddish-brown background. Dorsal spots usually have light centers (Stebbins 1985), and the dorsolateral folds (folds along the sides of the frog) are prominent. Larvae range from 14 to 80 mm (0.6 to 3.1 in.) in length, and the background color of the body is dark brown or olive with darker spots (Storer 1925). A line of very small, indistinct gold-colored spots are thought to become the dorsolateral fold. The California red-legged frog is one of two subspecies of the red-legged frog (*R. aurora*). For a detailed description of the two subspecies see the Draft Recovery Plan for the California Red-legged Frog (Service 2000) and references identified within the plan.

Male California red-legged frogs appear at breeding sites 2 to 4 weeks before females (Storer 1925). A pair in amplexus (breeding position) moves to an oviposition site (the location where eggs are laid) and the eggs are fertilized while being attached to a brace. Braces include emergent vegetation such as bulrushes (*Scirpus* sp.), cattails (*Typha* sp.), or roots and twigs, although breeding has been documented in ponds without emergent vegetation (Steven Bobzien, *in litt.* 2001). Each mass contains about 2,000 to 5,000 individual eggs measuring approximately 2.0 to 2.8 mm (0.08 to 0.11 in.) in diameter. Eggs hatch in 6 to 14 days depending on water temperatures (Jennings *et al.* 1992). Larvae typically metamorphose between July and September, 3.5 to 7 months after eggs are laid (Storer 1925; Wright and Wright 1949). However, several researchers have recently observed larvae to overwinter in Contra Costa, Marin, Santa Clara, and San Luis Obispo counties (Bobzien *et al.* 2000), and possibly in Ventura County (R. Smith, Los Angeles Zoo, *in litt.* 2001), with new metamorphs being observed in March and April.

Of the various life stages, larvae probably experience the highest mortality rates. Survival rate from hatching to metamorphosis (the process of changing from a tadpole to a frog) has been estimated as less than 1 percent (Jennings *et al.* 1992), 1.9 percent (Cook 1997), or less than 5 percent (Lawler *et al.* 1999) for California red-legged frog tadpoles co-occurring with bullfrog tadpoles, and 30 to 40 percent for California red-legged frog tadpoles occurring without bullfrogs (Lawler *et al.* 1999). Sexual maturity can be attained at 2 years of age by males and 3 years of age by females (Jennings and Hayes 1985), with adults living 8 to 10 years (Jennings, U.S. Geological Survey (USGS), Biological Resources Division (BRD), pers. comm. 2000). However, the average life span is probably much lower (Scott, USGS, BRD, pers. comm. 2000).

The historic range of the California red-legged frog extended along the coast from the vicinity of Point Reyes National Seashore, Marin County,

California, and inland from the vicinity of Redding, Shasta County, California, southward to northwestern Baja California, Mexico (Jennings and Hayes 1985; Hayes and Krempels 1986). California red-legged frogs have been documented in 46 counties in California, but now remain in only 248 streams or drainages in 26 counties; the subspecies has lost approximately 70 percent of its former range (Service 2000; 61 FR 25813). California red-legged frogs are still locally abundant within portions of the San Francisco Bay area (including Marin County) and the central coast. Within the remaining distribution of the subspecies, only isolated populations have been documented in the Sierra Nevada, northern Coast, and northern Transverse ranges. The subspecies was previously believed to be extirpated (exterminated) from most of its range in the southern Transverse and Peninsular Ranges, but two additional populations have recently been discovered. The species is still present in Baja California, Mexico (California Natural Diversity Data Base (CNDDB) 1998).

The California red-legged frog was listed as a threatened subspecies on May 31, 1996 (61 FR 25813). Habitat loss and alteration, over-exploitation, and introduction of exotic predators were significant factors in the subspecies' decline in the early-to mid-1900s. Reservoir construction, expansion of introduced predators, management of grazing in riparian areas resulting in loss of stream bank habitat and plunge pools, and prolonged drought, fragmented and eliminated many of the Sierra Nevada foothill populations. Only a few drainages currently support California red-legged frogs in the Sierra Nevada foothills, compared to more than 60 historical records. In Northern California, few California red-legged frog populations occupy naturally-occurring wetland environments. As natural wetlands and streams were converted for agriculture, flood control, and urban development, California red-legged frogs colonized small artificial impoundments created by cattle ranchers for the purpose of providing water for their cattle. Without these impoundments, the range of California red-legged frogs would be limited further in this region.

Several researchers have attributed the decline and extirpation of California red-legged frogs to the introduction of bullfrogs (*Rana catesbeiana*) and introduced predatory fishes (Hayes and Jennings 1986; Moyle 1973). This decline has been attributed to both predation and competition. Twedt (1993) observed the predation of juvenile northern red-legged frogs (*R. aurora aurora*) and suggested that bullfrogs may prey on subadult red-legged frogs. This is supported by Cook (Sonoma County Water Agency, *in litt.* 2000) and David Cook and M. Jennings (*in litt.* 2000) who documented predation of both tadpoles and juvenile California red-legged frogs, as well as a large adult, by bullfrogs. In addition, bullfrogs may have a competitive advantage over red-legged frogs. Bullfrogs are larger, have more generalized food habits (Bury and Whelan 1984), have an extended breeding season (Storer 1933) where an individual female produces as many as 20,000 eggs during a breeding season (Emlen 1977), and bullfrog larvae are unpalatable to predatory fish (Kruse and Francis 1977). Bullfrogs also interfere with red-legged frog reproduction. Both California and northern red-legged frogs have been observed in amplexus with both male and female bullfrogs (Twedt 1993; Service files).

California red-legged frogs are currently threatened by human activities, many of which operate concurrently and cumulatively with each other and with natural disturbances (*e.g.,* droughts and floods). Current factors associated with declining populations of the frog include: Degradation and loss of habitat through urbanization, mining, improper management of grazing, recreation, invasion of nonnative plants, impoundments, water diversions, degraded water quality, and introduced predators. These factors have resulted in the isolation and fragmentation of habitats within many watersheds, often precluding dispersal between sub-populations and jeopardizing the viability of metapopulations (broadly defined as multiple subpopulations that occasionally exchange individuals through dispersal, and are capable of colonizing or rescuing habitat patches when the local subpopulations have been extirpated). The fragmentation of existing habitat, and the continued colonization of existing habitat by nonnative species, may represent the most significant current threats to California red-legged frogs.

Numerous studies have demonstrated the impacts of fragmentation on other anuran (frog and toad) species. Urban populations of common frogs (*Rana temporaria*) were more genetically distinct than rural populations (Hitchins and Beebee 1997). Based on genetic analysis, Reh and Seitz (1990) found that highways effectively isolated *R. temporaria* populations. Kuhn (1987, in Reh and Seitz 1990) estimated that 24 to 40 cars per hour killed 50 percent of common toad (*Bufo bufo*) individuals migrating across a road, while Heine (1987, in Reh and Seitz 1990) found that 26 cars per hour could reduce the survival rate of toads crossing roads to zero. In addition, Fahrig *et al.* (1995) found a significant negative correlation between traffic density and the density of anuran populations. Thus, heavily traveled roads are an important human-caused landscape component, hindering amphibian movement through vehicle strikes and thereby fragmenting amphibian populations.

In addition to the fragmentation of habitat, activities that occur on upland habitats can have both direct and indirect, significant deleterious impacts on California red-legged frogs. For example, amphibian species richness (number of species in an area) is related to land use in the watersheds of Puget Sound, Washington (Richter and Azous 1995, 1997); species richness was significantly lower in watersheds where more than 40 percent of the land area was developed. This was attributed to increases in the total water level fluctuations within wetlands (*e.g.,* both increases in the number of fluctuations of water levels within the wetland and increases in the magnitude of fluctuations). Specifically, urbanization leads to higher peak flows and volumes resulting in increases in the magnitude, frequency, and duration of wetland hydroperiods and stream levels (Reinalt and Taylor 1997). Urbanization within the range of the California red-legged frog often results in similar effects on wetlands.

Urbanization results in additional water sources into wetlands and stream courses associated with irrigation and home use activities, especially during the summer months. This often drastically alters the hydroperiod and converts intermittent streams and seasonal wetlands to perennial aquatic habitat. Such alteration allows nonnative species such as bullfrogs and nonnative warm water fish species to invade the habitat and further adversely affect California red-legged frog populations. California red-legged frogs are rarely found in areas where a large majority of the watershed has been developed (H.T. Harvey and Associates 1997, Service files). This is further supported by Schueler (1994), who summarized research examining macroinvertebrate and fish diversity. Those results illustrated the difficulty of maintaining predevelopment stream quality when watershed development exceeds 10–15 percent impervious cover. For example, Klein (1979, in Schueler 1994) found that macroinvertebrate diversity consistently

became poor when watershed imperviousness exceeded 10 to 15 percent; this has been supported by Schueler and Galli, (1992 in Schueler 1994) and Shaver *et al.,* (1994, in Schueler 1994). This loss of diversity has also been observed in fish (Klein 1979; Limburg and Schmidt 1990, both in Schueler 1994).

In addition to the modification of hydroperiod, impacts within the watershed can also affect water and habitat quality. As watersheds are developed, the amount of impervious surface increases, resulting in an increase of sediments containing organic matter, pesticides and fertilizers, heavy metals, hydrocarbons, and other debris into streams and wetlands (U.S. Environmental Protection Agency (EPA) 1993). Skinner *et al.* (1999) found developed watersheds had greater concentrations of toxic effluents than less developed areas with more open space. The decrease in water quality can have profound impacts on native amphibians and other wetland vertebrates. Richter and Azous (1997) observed wetlands adjacent to undeveloped upland areas were more likely to have richer populations of native amphibians. Mensing *et al.* (1998) found that amphibian abundance was negatively influenced by land use at small scales (*e.g.,* within 0.5 to 1.0 kilometer (km) (0.30 to 0.60 mile (mi)).

Habitat fragmentation, wetland conversions, and hydrological alterations cumulatively result in changes in wetland species composition, including amphibian composition. Amphibian declines can be attributed to increasing numbers of nonnative competitors and predators capable of thriving in disturbed conditions (Harris 1998). Onorato *et al.* (1998) found native fish species were sensitive to anthropogenic disturbances and were becoming less abundant within the study area. They also found introduced generalists able to tolerate lower quality habitat and to replace native fish species within the system. This scenario has been demonstrated in the Santa Clara Valley, California, where the loss of California red-legged frog populations was attributed in part to the invasion of bullfrogs into urbanized areas (H.T. Harvey and Associates 1997).

California red-legged frogs are adapted to survive in a Mediterranean climate where habitat quality varies spatially and temporally. Due to this variability, population sizes can vary widely from year to year. During favorable years, California red-legged frogs can experience extremely high rates of reproduction and produce large numbers of dispersing young resulting in an increase in the number of occupied sites. In contrast, frogs may temporarily disappear from an area during periods of extended drought. Therefore, it is important for the long-term survival and recovery of the species to protect those sites that appear to be unoccupied, but can be recolonized by dispersing individuals from nearby sub-populations (Semlitsch 2000).

California red-legged frogs use a variety of habitat types, including various aquatic, riparian, and upland habitats. They include, but are not limited to, ephemeral ponds, intermittent streams, seasonal wetlands, springs, seeps, permanent ponds, perennial creeks, man-made aquatic features, marshes, dune ponds, lagoons, riparian corridors, blackberry (*Rubus* sp.) thickets, nonnative annual grasslands, and oak savannas. Among the variety of habitats where California red-legged frogs have been found, the only common factor is association with a permanent water source. Apparently, California red-legged frogs can use virtually any aquatic system provided a permanent water source, ideally free of nonnative predators, is nearby. Permanent water sources can include, but are not limited to, ponds, perennial creeks (or permanent plunge pools within intermittent creeks), seeps, and natural and artificial springs. California red-legged frogs may complete their entire life cycle in a particular area (*i.e.,* a pond that is suitable for all life stages) or utilize multiple habitat types. These variable life-history characteristics enable California red-legged frogs to change habitat use in response to varying conditions. During a period of abundant rainfall, the entire landscape may become suitable habitat. Conversely, habitat use may be drastically confined during periods of prolonged drought.

Populations of California red-legged frogs are most likely to persist where multiple breeding areas are within an assemblage of habitats used for dispersal (N. Scott and G. Rathbun *in litt.,* USGS, BRD, 1998), a trait typical of many frog and toad species (Laan and Verboom 1990; Reh and Seitz 1990; Mann *et al.* 1991; Sjogren-Gulve 1994; Griffiths 1997; Marsh *et al.* 1999). Breeding sites have been documented in a variety of aquatic habitats. Larvae, juveniles, and adult frogs have been observed inhabiting streams, creeks, ponds, marshes, sag ponds, deep pools and backwaters within streams and creeks, dune ponds, lagoons, estuaries, and artificial impoundments, such as stock ponds. Furthermore, breeding has been documented in these habitat types irrespective of vegetation cover. Frogs successfully breed in artificial ponds with little or no emergent vegetation (S. Bobzien *in litt.* 2000), and have been observed to successfully breed and inhabit stream reaches that are not cloaked in riparian vegetation (Bobzien *et al.* 2000). The importance of riparian vegetation for this subspecies is not well understood. It is believed that riparian plant communities provide good foraging habitat due to the moisture and camouflage that occur within the community, as well as providing areas for dispersal and supporting pools and backwater aquatic areas for breeding. However, other factors are more likely to influence the suitability of aquatic breeding sites, such as the general lack of introduced aquatic predators.

California red-legged frogs often disperse from their breeding habitat to utilize various aquatic, riparian, and upland estivation habitats in the summer, however it is also common for individuals to remain in the breeding area on a year-round basis. Frogs use a number of habitat features, including ponds, streams, marshes, boulders or rocks, organic debris such as downed trees or logs, industrial debris, and agricultural features, such as drains, watering troughs, or spring boxes. When riparian habitat is present, frogs spend considerable time resting and feeding in the vegetation (G. Rathbun *in litt.* 2000). When riparian habitat is absent, frogs spend considerable time resting and feeding under rocks and ledges, both in and out of water (Trish Tatarian, Sonoma State University, Sonoma County *in litt.* 2000). California red-legged frogs can also use small mammal burrows and moist leaf litter (Jennings and Hayes 1994). Stream channels with portions narrower and deeper than 46 cm (18 in.) may also provide habitat (61 FR 25813). This type of dispersal and habitat use is not observed in all California red-legged frogs, however, and is likely dependent on the year-to-year variations in climate and habitat suitability and varying requirements of each life stage.

At any time of the year, adult California red-legged frogs may move from breeding sites. They can be encountered living within streams at distances exceeding 2.9 km (1.8 mi) from the breeding site and have been found further than 100 m (328 ft) from water in adjacent dense riparian vegetation. The California red-legged frog has been observed inhabiting riparian areas for up to 77 days (J. Bulger *et al.*, USGS, BRD, *in litt.* 2000), but typically remain within 60 m (200

ft) of water. During periods of wet weather, starting with the first rains of fall, some individuals may make overland excursions through upland habitats. Most of these overland movements occur at night. Evidence from marked adult frogs on the San Simeon coast of San Luis Obispo County, California, suggests that frog movements of about 1.6 km (1 mi), over upland habitats, are possible over the course of a wet season (N. Scott and G. Rathbun, *in litt.* 1998). Frogs will make long-distance straight-line, point-to-point movements, rather than using corridors for moving between habitats (N. Scott and G. Rathbun, *in litt.*, 1998). Dispersing adult frogs in northern Santa Cruz County traveled distances from 0.4 km (0.25 mi) to more than 3.2 km (2 mi) without apparent regard to topography, vegetation type, or riparian corridors (J. Bulger, *in litt.* 2000). Many newly metamorphosed juveniles tend to disperse short distances initially, July through September, and then move further away from the breeding habitat during warm rain events (Monk 1997a; M. Jennings *in litt.* 2000; N. Scott *in litt.* 2000; Brian Mori *in litt.* 2000). Bobzien *et al.* (2000) observed juveniles inhabiting a wide variety of habitats while adults primarily inhabited deep pools; and they postulated that juveniles may segregate themselves away from adults to escape predation and competition.

The dispersal capabilities of juveniles have not been studied, but are likely dependent upon rainfall and moisture levels during and immediately following dispersal events and on habitat availability and environmental variability. There is anecdotal evidence that juvenile red-legged frogs disperse at least 1 km (0.6 mi) away from breeding habitat. These data are the result of consulting biologists conducting surveys for California tiger salamanders (*Ambystoma californiense*) in eastern Alameda (Monk and Associates 1997a and 1997b) and Santa Clara counties (B. Mori, *in litt.* 2000). In both locations, newly metamorphosed California red-legged frogs were found dispersing away from breeding habitat during rain events. The ability of juveniles and adults to disperse is important for the long-term survival and recovery of the subspecies as the dispersing individuals can recolonize areas subjected to localized extirpation.

The manner in which non-dispersing California red-legged frogs use upland habitats is not well understood. The length of time California red-legged frogs spend in upland habitats, patterns of use, and whether juveniles, subadults and adults use uplands differently are under study. Preliminary data from San Simeon and Pico creeks in central California indicated that the number of days when California red-legged frogs were found more than 2.0 m (7 ft) from water ranged from 0 to 56 days (G. Rathbun, *in litt.* 2000), while the majority of California red-legged frogs observed in eastern Contra Costa County spent the entire wet season within streamside habitat (T. Tatarian, *in litt.* 2000). However, several frogs have been documented moving away from the streamside habitat for varying periods (T. Tatarian, pers. comm. 2001).

The healthiest California red-legged frog populations persist as a collection of subpopulations that exchange genetic information through individual dispersal events. These populations persist and flourish where suitable breeding and nonbreeding habitats are interspersed throughout the landscape and are interconnected by unfragmented dispersal habitat. Where this habitat mosaic exists, local extirpations may be counterbalanced by the colonization of new habitat or recolonization of unoccupied areas of suitable habitat. Studies on other frogs and toads have demonstrated that the probability of a habitat being occupied is positively correlated with the distance to the nearest currently occupied habitat patch (Laan and Verboom 1990; Mann *et al.* 1991; Marsh *et al.* 1999). Isolated patches far removed from occupied patches eventually became extirpated (Sjogren-Gulve 1994). In addition to distance between habitat patches, the fragmentation of dispersal routes can also result in the isolation of subpopulations. Studies from other anuran species have shown that fragmentation has resulted in problems associated with inbreeding (Reh and Seitz 1990; Hitchings and Beebee 1997) and an increase in unoccupied suitable habitat, and can ultimately result in extinction (Sjogren-Gulve 1994).

The long-term probability of the survival and recovery of California red-legged frogs is dependent upon the protection of existing breeding habitat, the movements of individuals between aquatic patches, and the ability to recolonize newly created or vacated habitats. Recolonization, which is vital to the recovery of this subspecies, is dependent upon landscape characteristics including the distance between patches, the number and severity of barriers between patches, and the presence of interconnecting elements (*e.g.,* habitat where frogs can rehydrate), and upon the dispersal capability of California red-legged frogs (Laan and Verboom 1990).

Previous Federal Action

We received a petition from Drs. Mark R. Jennings, Marc P. Hayes, and Dan Holland on January 29, 1992, to list the California red-legged frog as threatened along the coastal portion of its range and endangered throughout the remaining portion of its range. We published a 90-day petition finding on October 5, 1992 (57 FR 45761), that concluded that substantial information had been presented and that listing the subspecies may be warranted. The California red-legged frog had been previously included in our November 21, 1991, Animal Notice of Review (56 FR 58804) as a category 1 candidate species. Category 1 candidates (now known simply as candidates) are species for which we have sufficient information on biological vulnerability and threats to support proposals to list them as endangered or threatened. On July 19, 1993, we published a 12-month finding on the petitioned action (58 FR 38553), indicating that listing of the frog was warranted and that a proposed rule would be published. We published a proposal to list the frog as an endangered species on February 2, 1994 (59 FR 4888). Based on information provided during the public comment period, we published a final rule listing the California red-legged frog as threatened on May 23, 1996 (61 FR 25813).

We did not propose to designate critical habitat for the California red-legged frog at the time of the final listing rule because we believed designation was not prudent. Because California red-legged frogs are found on private property, we determined the subspecies was at risk from vandalism, and that publication of specific localities would make it more vulnerable to vandalism, as well as collection for market consumption.

On March 24, 1999, the Earthjustice Legal Defense Fund, on behalf of the Jumping Frog Research Institute, the Southwest Center for Biological Diversity, and the Center for Sierra Nevada Conservation, filed a lawsuit in the Northern District of California against the Service for failure to designate critical habitat for the California red-legged frog.

On December 15, 1999, the court ordered us to make a prudency determination by August 31, 2000, and issue a final rule by December 29, 2001. On January 18, 2000, the court clarified an error in the December 15, 1999, order stating that the Service shall issue a final rule by December 29, 2000. On September 11, 2000, we published a proposed determination for the

designation of critical habitat for the California red-legged frog (65 FR 54891). A total of approximately 2,175,000 ha (5,373,650 ac) was proposed as critical habitat for the frog within Alameda, Butte, Calaveras, Contra costa, El Dorado, Fresno, Kern, Los Angeles, Marin, Mariposa, Merced, Monterey, Napa, Plumas, Riverside, San Benito, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Solano, Sonoma, Stanislaus, Tehama, Tuolumne, Ventura, and Yuba counties, California. The comment period was open until October 11, 2000. During this comment period, four public hearings were held in Ventura (September 19, 2000), San Luis Obispo (September 21, 2000), Dublin (September 26, 2000), and Sacramento (September 28, 2000). On December 21, 2000, we published a notice (65 FR 80409) announcing the reopening of the comment period on the proposal to designate critical habitat for the California red-legged frog and a notice of availability of the draft economic analysis on the proposed determination. The comment period was reopened until February 2, 2001.

On August 22, 2000, we submitted a declaration requesting an extension of the court order to March 1, 2001, citing the need to extend the comment period. Publication of this final rule is consistent with that declaration.

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 consideration 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 species or a threatened species to the point at which listing under the Act is no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 also requires consultation on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as '' * * * the direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' Aside from the added 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 lands that do not involve a Federal nexus, critical habitat designation would not afford any additional protections under the Act against such activities.

To be included in a critical habitat designation, the habitat must first be ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (*i.e.*, areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Section 4 requires that we designate critical habitat at the time of listing and based on what we know at the time of the designation. When we designate critical habitat at the time of listing or under short court-ordered deadlines, we will often not have sufficient information to identify all areas of critical habitat. We are required, nevertheless, to make a decision and, thus, must base our designations on what, at the time of designation, we know to be critical habitat.

Within the geographic area occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation. Within the geographic area occupied by the species, we will not designate areas that do not now have the primary constituent elements, as defined at 50 CFR 424.12(b), that provide essential life cycle needs of the species.

Our regulations state that, ''The Secretary shall designate as critical habitat areas outside the geographic area presently occupied by the species only when a designation limited to its present range would be inadequate to ensure the conservation of the species (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species require designation of critical habitat outside of occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (Vol. 59, p. 34271), identifies criteria, establishes procedures, and provides guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. It requires Service biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is the listing package for the species. Additional information may be obtained from a draft Recovery Plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, unpublished materials, and expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, because of the information available for us at the time of designation, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1), and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard and the take prohibitions of section 9 of the Act, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated

critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

In identifying areas that are essential to conserve the California red-legged frog, we used the best scientific and commercial data available. This included data from research and survey observations published in peer-reviewed articles, and recovery criteria, habitat analyses, the recovery strategy, and other information in the draft Recovery Plan (Service 2000). In designating critical habitat for the California red-legged frog, we have reviewed the overall approach to the conservation of the California red-legged frog undertaken by the local, State, Tribal, and Federal agencies operating within the subspecies' range since its listing in 1996. Further, information provided in comments on the proposed designation and draft economic analysis were evaluated and taken into consideration in the development of this final designation.

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 designate as critical habitat, we are required to consider those physical and biological features (primary constituent elements) that are essential to the conservation of the species, and that may require special management considerations and protection. These 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; sites for breeding, reproduction, rearing (or development) of offspring; and habitats that are protected protection from disturbance or are representative of the historic geographical and ecological distributions of a species.

Due to the complex life history and dispersal capabilities of the California red-legged frog, and the dynamic nature of the environments in which they are found, the primary constituent elements described below are found throughout the watersheds that are being designated as critical habitat. Special management, such as habitat rehabilitation efforts (*e.g.,* removal of nonnative predators), may be necessary throughout the area being designated. Critical habitat for California red-legged frogs will provide for breeding and nonbreeding habitat and for dispersal between these habitats, as well as allowing for expansion of frog populations, which is vital to the recovery of the subspecies.

Critical habitat includes: (a) Essential aquatic habitat; (b) associated uplands; and (c) dispersal habitat connecting essential aquatic habitat.

Aquatic habitat is essential for providing space, food, and cover, necessary to sustain all life stages of California red-legged frogs. It consists of virtually all low-gradient fresh water bodies, including natural and man-made (*e.g.,* stock) ponds, backwaters within streams and creeks, marshes, lagoons, and dune ponds, except deep lacustrine water habitat (*e.g.,* deep lakes and reservoirs 20 ha (50 ac) or larger in size) inhabited by nonnative predators. The subspecies requires a permanent water source to ensure that aquatic habitat is available year-round. Permanent water sources can include, but are not limited to, ponds, perennial creeks (or permanent plunge pools within intermittent creeks), seeps, and springs. Aquatic habitat used for breeding must have a minimum deep water depth of 0.5 m (20 in.), and maintain water during the entire tadpole rearing season (at least March through July). During periods of drought, or less-than-average rainfall, these breeding sites may not hold water long enough for individuals to complete metamorphosis, but these sites would still be considered essential breeding habitat in wetter years. Ponds that support a small population of California red-legged frogs, but are not surrounded by suitable upland habitat, or are cut off from other breeding ponds or permanent water sources by impassable dispersal barriers, do not have the primary constituent elements for California red-legged frog critical habitat.

To be a primary constituent element for California red-legged frog critical habitat, the aquatic components must consist of two or more breeding sites located within 2 km (1.25 mi) of each other; at least one of the breeding sites must also be a permanent water source. Also, the aquatic component can consist of two or more seasonal breeding sites with a permanent nonbreeding water source located within 2 km (1.25 mi) of each breeding site. California red-legged frogs have been documented to travel 3.6 km (2.25 mi) in a virtual straight line migration from nonbreeding to breeding habitats (J. Bulger, *in litt.* 2000). We believe that this is likely the upward limit of dispersal capability, and the 2 km (1.25 mi) dispersal element will ensure that connectivity between breeding habitats will be maintained within areas designated as critical habitat. In addition, breeding sites must be connected by essential dispersal habitat, described below.

Associated upland and riparian habitat is essential to maintain California red-legged frog populations associated with essential aquatic habitat. The associated uplands and riparian habitat provide food and shelter sites for California red-legged frogs, and assist in maintaining the integrity of aquatic sites by protecting them from disturbance and supporting the normal functions of the aquatic habitat. Key conditions include the timing, duration, and extent of water moving within the system, filtering capacity, and maintaining the habitat to favor California red-legged frogs and discourage the colonization of nonnative species such as bullfrogs. Essential upland habitat consists of all upland areas within 90 m (300 ft), or no further than the watershed boundary, of the edge of the ordinary high-water mark. This is based, in part, on the work of J. Bulger *et al.* (*in litt.* 2000), who found that frogs were capable of inhabiting upland habitats within 60 m (200 feet) of aquatic habitat for continuous durations exceeding 20 days, and G. Rathbun (*in litt.* 2000), who observed frogs inhabiting riparian habitat for durations exceeding 30 days.

Essential dispersal habitat provides connectivity among California red-legged frog breeding habitat (and associated upland) patches. While frogs can pass many obstacles, and do not require a particular type of habitat for dispersal, the habitat connecting essential breeding locations and other aquatic habitat must be free of barriers (*e.g.,* a physical or biological feature that prevents frogs from dispersing beyond the feature) and at least 90 m (300 ft) wide. Essential dispersal habitat consists of all upland and wetland habitat free of barriers that connects two or more patches of essential breeding habitat within 2 km (1.25 miles) of one another. Dispersal barriers include heavily traveled roads (an average of 30 cars per hour from 10:00 p.m. to 4:00 a.m.) that possess no bridges or culverts; moderate to high density urban or industrial developments; and large reservoirs over 20 ha (50 ac) in size. Agricultural lands such as row crops, orchards, vineyards, and pastures do not constitute barriers to California red-legged frog dispersal.

In summary, the primary constituent elements consist of three components. At a minimum, this will include two (or more) suitable breeding locations, a permanent water source, associated uplands surrounding these water bodies up to 90 m (300 ft) from the water's edge, all within 2 km (1.25 miles) of one another and connected by barrier-free dispersal habitat that is at least 90 m (300 ft) in width. When these elements are all present, all other essential aquatic habitat within 2 km (1.25 mi), and free of dispersal barriers, is also considered critical habitat.

Criteria Used To Identify Critical Habitat

We considered several criteria in the selection and proposal of specific boundaries for California red-legged frog critical habitat. These criteria, which follow the recovery strategy outlined in the draft Recovery Plan, focused on designating units (1) throughout the geographic and elevational range of the subspecies; (2) that would result in protecting populations that are geographically distributed in a manner that allows for the continued existence of viable and essential metapopulations despite fluctuations in the status of subpopulations; and (3) that possess large continuous blocks of occupied habitat, representing source populations and/or unique ecological characteristics, or areas where the re-establishment of California red-legged frogs is essential to the recovery of the subspecies (Service 2000). We first determined the occupancy status of areas. Areas were considered to possess extant populations if California red-legged frogs have been documented in that area since 1985. We then selected areas that are inhabited by populations (source populations) that are capable of maintaining their current population levels and capable of providing individuals to recruit into subpopulations found in adjacent areas. We also selected several areas that may lack source populations, but which have other unique ecological significance, with the goal of maintaining the full range of the genetic variability and evolutionary adaptation in the subspecies. These include areas on the periphery of the current range and elsewhere that represent the historic distribution of the subspecies, and areas that provide connectivity among source populations or between source populations and unoccupied extirpated areas. Of the approximate 1,674,582 ha (4,140,440 ac) that are designated as critical habitat, an estimated 81,020 ha (200,212 ac) is considered unoccupied habitat (Units 5 and 31). All of this unoccupied habitat occurs on Federal lands, and was identified in the core areas essential for California red-legged frog recovery in our draft Recovery Plan (Service 2000). Both unoccupied and occupied areas not included in this designation can still be targets for recovery actions, including reestablishing populations.

The critical habitat units were delineated by first creating data layers in a geographic information system (GIS) format of all of the core areas as proposed in the draft Recovery Plan. We then used the California Watershed Map (CALWATER version 2.2), a coverage developed by California Department of Water Resources (DWR), to identify watersheds containing core areas and delineate their boundaries in a 1:24,000 format. CALWATER is a set of watershed boundaries meeting standardized delineation criteria, consisting of six levels of increasing specificity, with the primary purpose of assigning a single, unique code to a specific watershed polygon (*e.g.,* a planning watershed). CALWATER delineates the boundaries of planning watersheds 1,200 to 4,000 ha (3,000 to 10,000 ac) in size. We used these planning watersheds as the minimum mapping unit to delineate critical habitat units because watersheds represent functional, hydrologic management units that allow for efficient evaluation of factors that affect the quality of aquatic habitat and, thus, are extremely relevant to amphibian populations. The use of planning watersheds also allowed us to delineate critical habitat that protects habitat quality, breeding and nonbreeding habitat, and dispersal habitat in a manner consistent with the overall goal of protecting and sustaining metapopulations.

We selected all of the planning watersheds that intersected areas of high California red-legged frog abundance, areas essential to maintain connectivity, and/or areas of unique ecological significance as identified by the core areas from the draft Recovery Plan. In areas where planning watersheds were large and/or watersheds were significantly altered hydrologically, we used alternative structural, political, or topographic boundaries (*e.g.,* roads, county boundaries, elevation contour lines) as critical habitat boundaries because in these areas the benefits of using planning watersheds were limited.

Using the planning watersheds as the minimum mapping unit of this critical habitat designation would not allow us to avoid towns, other developed areas, or other areas where the primary constituent elements are not found. To address this shortcoming, we overlayed the planning watersheds with a 100-m Universal Transverse Mercator (UTM) North American Datum of 1983 (NAD 83) grid. Using information from recent digital aerial photography, we then removed NAD 83 grid cells that did not contain the primary constituent elements. Although the data available to us were not sufficiently detailed to definitively map the primary constituent elements by grid cell, this approach did allow us to remove significant urban and other developed areas, including some agricultural lands, from the final designation.

We could not depend solely on federally owned lands for critical habitat designation as these lands are limited in geographic location, size, and habitat quality within the current range of the California red-legged frog. In addition to the federally owned lands, we are designating critical habitat on non-Federal public lands and privately owned lands, including land owned by the California Department of Parks and Recreation, the California Department of Fish and Game, DWR, and the University of California, as well as regional and local park lands and water district lands. All non-Federal lands designated as critical habitat meet the definition of critical habitat under section 3 of the Act in that they are within the geographical area occupied by the subspecies, are essential to the conservation of the subspecies, and may require special management considerations or protection.

We are also designating areas that are outside the current distribution of the subspecies, but are essential for the conservation of the subspecies. We included one area in Tuolumne County in the Sierra Nevada and one in the Tujunga watershed in Los Angeles County in the Peninsular Range of southern California. These areas are within the historic range of the subspecies with some occurrences documented as recently as the mid-1980s, are strong candidate areas for reestablishment due to preliminary positive discussions with Federal agencies and adjacent landowners, consist entirely of large blocks of Federal land, and are identified in the draft Recovery Plan as important reestablishment areas essential to the recovery of the California red-legged frog. These areas also provide important connectivity among currently occupied areas. In order for future reestablishment to be successful, special management in these areas is needed, including habitat restoration and the removal of nonnative species, such as

predators. However, the primary constituent elements for California red-legged frogs are present in these areas.

Without reestablishment in the Sierra Nevada and Southern California, it is probable that California red-legged frogs will be extirpated from these areas, greatly reducing the likelihood of eventual recovery of the species. As a result, we have determined that reestablishment of California red-legged frog populations in these currently unoccupied areas is essential to the conservation of the species. Since the listing of California red-legged frogs as a threatened species in 1996, no progress has been made improving habitat for this species within these unoccupied areas. Because California red-legged frogs have been extirpated from these areas, Federal agencies have determined their actions will not adversely affect California red-legged frogs and have further declined to use their authority under section 7(a)(1) to help recover the California red-legged frogs in the Sierra Nevada and southern Transverse and Peninsular Ranges. Therefore, given the lack of protection for these areas, it is important to ensure special management actions are implemented in unoccupied lands within the Sierra Nevada by designating them as critical habitat.

We considered proposing portions of the Santa Ynez Band of the Chumash Mission Indian Reservation because we believed riparian and adjoining upland areas on Tribal lands may be essential to the conservation of California red-legged frogs. Since the time of the proposal, we have consulted with the Tribe and evaluated additional information to make a determination as to whether any Tribal lands should be included as critical habitat for California red-legged frogs. We did not include these lands in the final critical habitat designation, based upon our determination that this small parcel is not essential because it contains marginal habitat and would provide limited long-term conservation value to the species. Recent surveys by the Tribe also did not detect California red-legged frogs on the parcel.

In selecting areas of critical habitat, we made an effort to avoid developed areas, such as towns and other similar lands, that are not likely to contribute to California red-legged frog conservation. However, the minimum mapping unit that we used to approximate our delineation of critical habitat for California red-legged frogs did not allow us to exclude all developed areas such as roads and rural developed areas or other lands. Existing features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, railroads, other paved areas, lawns, and other urban landscaped areas, and uplands removed from essential aquatic and dispersal habitat, are not likely to contain the primary constituent elements essential for the conservation of the California red-legged frog. Therefore, Federal actions limited to these areas would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

Critical Habitat Designation

The areas we are designating as critical habitat currently provide all of those habitat components necessary to meet the primary biological needs of the California red-legged frog, as described in the draft Recovery Plan (Service 2000), and defined by the primary constituent elements. We did not include all areas currently occupied by California red-legged frogs, only areas possessing large populations, representing unique ecological characteristics, or representing historic geographic area where California red-legged frogs can be reestablished.

Table 1 shows the approximate acreage of critical habitat by county and land ownership. Critical habitat for the California red-legged frog includes approximately 1,674,582 ha (4,140,440 ac) in Alameda, Butte, Contra Costa, El Dorado, Fresno, Kern, Los Angeles, Marin, Mariposa, Merced, Monterey, Napa, Plumas, Riverside, San Benito, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Tehama, Tuolumne, and Ventura counties, California. A brief description of each critical habitat unit is given below.

TABLE 1.—APPROXIMATE AREA ENCOMPASSING DESIGNATED CRITICAL HABITAT IN HECTARES (HA) (ACRES (AC)) BY COUNTY AND LAND OWNERSHIP

County	Federal land	Local/state land	Private land	Total
Plumas	22,904 ha (56,598 ac)	NA	2,458 ha (6,074 ac)	25,362 ha (62,672 ac).
Butte	15,115 ha (37,350 ac)	135 ha (335ac)	6,305 ha (15,582 ac)	21,555 ha (53,267 ac).
El Dorado	8,624 ha (21,312 ac)	10 ha (26 ac)	15,456 ha (38,193 ac)	24,090 ha (59,531 ac).
Tuolumne	49,054 ha (121,216 ac)	NA	NA	49,054 ha (121,216 ac).
Mariposa	1,262 ha (3,120 ac)	NA	NA	1,262 ha (3,120 ac).
Tehama	2,727 ha (6,740 ac)	NA	12,771 ha (31,560 ac)	15,498 ha (38,300 ac).
Napa	2,151 ha (5,317 ac)	758 ha (1,874 ac)	20,056 ha (49,562 ac)	22,965 ha (56,753 ac).
Sonoma	NA	819 ha (2,025 ac)	7,154 ha (17,678 ac)	7,973 ha (19,703 ac).
Solano	826 ha (2,042 ac)	67 ha (168 ac)	9,765 ha (24,130 ac)	10,658 ha (26,340 ac).
Marin	30,247 ha (74,742 ac)	4,846 ha (11,976 ac)	45,649 ha (112,802 ac)	80,742 ha (199,520 ac).
Alameda	337 ha (833 ac)	1,853 ha (4,581 ac)	95,404 ha (235,750 ac)	97,594 ha (241,164 ac).
Contra Costa	47 ha (117 ac)	7,618 ha (18,826 ac)	47,676 ha (117,810 ac)	55,341 ha (136,753 ac).
Santa Clara	2,298 ha (5,678 ac)	15,563 ha (38,459 ac)	69,941 ha (172,828 ac)	87,802 ha (216,966 ac).

TABLE 1.—APPROXIMATE AREA ENCOMPASSING DESIGNATED CRITICAL HABITAT IN HECTARES (HA) (ACRES (AC)) BY COUNTY AND LAND OWNERSHIP—Continued

County	Federal land	Local/state land	Private land	Total
San Joaquin	NA	38 ha (96 ac)	11,386 ha (28,136 ac)	11,424 ha (28,232 ac).
Stanislaus	27 ha (67 ac)	10,809 ha (26,711 ac)	5,824 ha (14,392 ac)	16,660 ha (41,170 ac).
Merced	1,010 ha (2,496 ac)	2,627 ha (6,493 ac)	66,880 ha (165,266 ac)	70,517 ha (174,255 ac).
Fresno	6,807 ha (16,822 ac)	NA	3,058 ha (7,557 ac)	9,865 ha (24,379 ac).
San Benito	11,826 ha (29,224 ac)	NA	102,340 ha (252,888 ac)	114,166 ha (282,112 ac).
San Mateo	418 ha (1,033 ac)	9,785 ha (24,180 ac)	67,711 ha (167,319 ac)	77,914 ha (192,532 ac).
Santa Cruz	137 ha (340 ac)	10,059 ha (24,858 ac)	32,773 ha (80,985 ac)	42,969 ha (106,183 ac).
Monterey	18,604 ha (45,972 ac)	1,487 ha (3,675 ac)	135,419 ha (334,629 ac)	155,510 ha (384,276 ac).
San Luis Obispo	11,010 ha (27,208 ac)	2,050 ha (5,068 ac)	203,916 ha (503,889 ac)	216,976 ha (536,165 ac).
Kern	473 ha (1,171 ac)	NA	12,148 ha (30,021 ac)	12,621 ha (31,192 ac).
Santa Barbara	79,365 ha (196,117 ac)	1,134 ha (2,804 ac)	123,083 ha (304,147 ac)	203,582 ha (503,068 ac).
Ventura	104,547 ha (258,343 ac)	NA	6,458 ha (15,959 ac)	111,005 ha (274,302 ac).
Los Angeles	76,927 ha (190,091 ac)	4,961 ha (12,261 ac)	26,269 ha (64,914 ac)	108,157 ha (267,266 ac).
Riverside	11,829 ha (29,232 ac)	NA	6,784 ha (16,764 ac)	18,613 ha (45,996 ac).
San Diego	4,296 ha (10,616 ac)	NA	410 ha (1,015 ac)	4,706 ha (11,631 ac).
Total	463,438 ha (1,145,211 ac)	74,949 ha (185,229 ac)	1,147,070 ha (2,834,503 ac)	1,674,582 ha (4,138,064 ac).

Unit 1. North Fork Feather Unit

Unit 1 consists of drainages found within the North Fork Feather River drainage. The unit encompasses approximately 46,917 ha (115,939 ac). The North Fork Feather unit is the northeastern-most of the critical habitat units. This unit is located in Plumas and Butte counties. Approximately 81 percent of the unit consists of Federal lands managed by Plumas and Lassen National Forests, and the majority of the remaining area is privately owned. California red-legged frogs have been documented in the French Creek watershed in Butte County. This population represents one of only three existing populations in the Sierra Nevada. This unit is in need of special management, including the eradication of exotic predators in suitable breeding habitat adjacent to documented breeding habitats. Other necessary management may include reestablishment of red-legged frogs within the area, however, natural recolonization is likely to occur if nonnative predators are removed.

Unit 2. Yuba River Unit

This proposed critical habitat unit has been deleted in this final rule.

Unit 3. Weber Creek-Cosumnes Unit

Unit 3 consists of drainages in the Weber Creek and North Fork Cosumnes River watersheds in El Dorado County. The unit encompasses approximately 24,090 ha (59,531 ac), of which 36 percent is within the El Dorado National Forest and 64 percent is privately owned. California red-legged frogs have been documented in the Weber Creek watershed. This population represents one of only existing three populations in the Sierra Nevada. This unit requires special management, including the eradication of exotic predators in suitable breeding habitat adjacent to documented breeding habitats. Other necessary management may include reestablishment of red-legged frogs within the area, however, natural recolonization is likely to occur if nonnative predators are removed.

Unit 4. South Fork Calaveras River Unit

This proposed critical habitat unit has been deleted in this final rule.

Unit 5. Yosemite Unit

Unit 5 consists of drainages found in the tributaries of the Tuolumne River and Jordan Creek, a tributary to the Merced River, in Tuolumne and Mariposa counties. The unit encompasses approximately 50,316 ha (124,336 ac), of which 100 percent is managed by Stanislaus National Forest or the National Park Service (NPS). Historically, the California red-legged frogs was found in several locations in Unit 5 and in adjacent areas, including two historical occurrences from 1984. Although this unit currently is considered unoccupied, it contains all of the constituent elements and is in need of special management practices that include the eradication of nonnative predators in suitable breeding habitat. This area is a candidate for reestablishment, and is within a core recovery area as defined in the draft Recovery Plan and considered essential to the conservation of California red-legged frogs in the Sierra Nevada.

Unit 6. Headwaters of Cottonwood Creek Unit

Unit 6 consists of drainages found within the headwaters of Cottonwood

and Red Bank creeks in Tehama County. The unit encompasses approximately 15,498 ha (38,300 ac), of which approximately 18 percent is within the boundaries of the Mendocino National Forest; the majority of the remaining 82 percent is privately owned. Unit 6 is occupied by a population known from CNDDB (2000) records. No additional sightings have been reported from the area. This area contains all of the constituent elements and is essential in that it represents the northernmost population of California red-legged frogs within the Coast Range. This area has not been adequately surveyed and additional populations may be present. This population may be used as a source population to provide natural reestablishment in the northern portion of the Coast Range.

Unit 7. Cleary Preserve Unit

Unit 7 consists of drainages found within the watersheds that form the tributaries to Pope Creek in Napa County. The unit encompasses approximately 13,793 ha (34,087 ac), of which approximately 88 percent is privately owned; the remaining 12 percent is managed by Federal or State agencies. Unit 7 represents one of the few documented occurrences of California red-legged frogs in this area (McGinnis 2001) and represents an important link between populations in Marin County and populations on the east side of the Coast Range.

Unit 8. Annadel State Park Preserve Unit

Unit 8 consists of the Upper Sonoma Creek watershed found partially within Annadel State Park in Sonoma County. The unit encompasses approximately 2,559 ha (6,326 ac), of which approximately 76 percent is privately owned and 24 percent is managed by the California Department of Parks and Recreation (CDPR). Unit 8 is occupied by one known core population of California red-legged frogs (Cook 1997). This area represents a source population with potential linkage to the Sears Point unit as well as units to the west.

Unit 9. Stebbins Cold Canyon Preserve Unit

Unit 9 consists of drainages found within and adjacent to Stebbins Cold Canyon Preserve and the Quail Ridge Wilderness Preserve in Napa and Solano counties. The unit is comprised of watersheds that form Capell Creek, including Wragg Canyon, Markley Canyon, Steel Canyon, and Wild Horse Canyon watersheds. The unit encompasses approximately 8,589 ha (21,227 ac), of which approximately 75 percent is privately owned and 25 percent is managed by the University of California Natural Reserve System, the Quail Ridge Wilderness Conservancy, and the Bureau of Land Management (BLM). Unit 9 represents one of the historic occurrences of California red-legged frogs in this area, and represents an important link between populations in Marin County and populations on the east side of the Coast Range.

Unit 10. Sears Point Unit

Unit 10 consists of Stage Gulch and Lower Petaluma River watersheds, tributaries to the Petaluma River. This unit is located in and adjacent to Sears Point in Sonoma and Marin counties and encompasses approximately 4,358 ha (10,771 ac), all of which is privately owned. Unit 10 is occupied by several subpopulations. Essential breeding habitat is dispersed throughout the unit, and has been documented in several ponds and streams. This unit provides linkages to the units to the north, east, and west.

Unit 11. American Canyon Unit

Unit 11 consists of watersheds within and adjacent to American Canyon Creek and Sulphur Springs Creek in Napa and Solano counties. Watersheds within this unit include Fagan Creek, a tributary to the Napa River, the Jameson Canyon watershed, and the Sky Valley and Pine Lake watersheds that flow into Lake Herman. The unit encompasses approximately 11,240 ha (27,779 ac), of which 99 percent is privately owned. Unit 11 is occupied by several subpopulations.

Unit 12. Point Reyes Unit

Unit 12 consists of watersheds within and adjacent to Bolinas Lagoon, Point Reyes, and Tomales Bay in Marin and Sonoma counties. This unit encompasses approximately 81,168 ha (200,572 ac); 44 percent is managed by the NPS, CDPR, and the Marin Municipal Water District, and 56 percent is privately owned. Unit 12 is occupied with several populations known primarily through research by G. Fellers, BRD (Service files). Essential breeding habitat is dispersed throughout the unit. This unit contains one of the largest known populations of California red-legged frogs.

Unit 13. Tiburon Peninsula Unit

Unit 13 consists of the Belvedere Lagoon watershed within and adjacent to the Tiburon Peninsula in Marin County. The unit encompasses approximately 628 ha (1,554 ac), all of which is privately owned. Unit 12 is occupied by one known breeding population known from CNDDB (2000) records.

Unit 14. San Mateo-Northern Santa Cruz Unit

Unit 14 consists of coastal watersheds within San Mateo County and northern Santa Cruz County that drain into the Pacific Ocean. The unit encompasses approximately 96,296 ha (237,955 ac), of which 83 percent is privately owned; the remaining 17 percent is primarily managed by the San Francisco Public Utilities Commission (SFPUC) and CDPR. Unit 14 is occupied by several core subpopulations known from various sources including formal consultations with the U.S. Army Corps of Engineers (Corps) (Service files). Essential breeding habitat is dispersed throughout the unit; populations have been documented in ponds and wetlands throughout Unit 14. This area contains numerous areas with large populations including Pescadero Marsh, and watersheds to the south.

Unit 15. East Bay-Diablo Range Unit

Unit 15 consists of watersheds within Contra Costa, Alameda, San Joaquin, Santa Clara, Stanislaus, San Benito, Merced, and Fresno counties. The unit encompasses approximately 426,480 ha (1,053,850 ac), of which 87 percent is privately owned; the remaining 13 percent is managed, in part, by East Bay Regional Park District (EBRPD), East Bay Municipal Utilities District (EBMUD), Contra Costa Water District (CCWD), U.S. Bureau of Reclamation (BOR), U.S. Department of Energy (DOE), CDPR, SFPUC, CDFG, Santa Clara Valley Water District, and DWR. Unit 15 is occupied with several large core subpopulations, including the population within CCWD and EBRPD lands, and essential breeding habitat is located throughout the unit.

Unit 16. Pajaro River Unit

Unit 16 consists of portions of two watersheds that are part of the Pajaro River Drainage, the Flint Hills watershed in San Benito County, and the Santa Clara Valley watershed in Santa Clara and San Benito counties. The unit encompasses approximately 19,524 ha (48,247 ac) and is all privately owned. Unit 16 is occupied and is an essential unit in providing connectivity from the outer coast plain and ranges to the inner Coast Ranges.

Unit 17. Elkhorn Slough-Salinas River Unit

Unit 17 consists of coastal drainages of southern Santa Cruz and northern Monterey counties. The unit is located in Santa Cruz, Monterey, and San

Benito counties. The unit encompasses approximately 66,799 ha (165,067 ac), of which 93 percent is privately owned; the remaining 7 percent is managed by CDPR and the Elkhorn Slough National Estuarine Research Reserve. Unit 17 is occupied and provides connectivity from the coastal plain and outer coast ranges to the inner coast ranges. The unit represents a unique ecological set in that it is a large estuary/freshwater slough system not typically found on the California coast.

Unit 18. Carmel River Unit

Unit 18 consists of drainages comprising the Carmel River watershed in Monterey County. This unit encompasses approximately 62,976 ha (155,620 ac), of which approximately 26 percent is managed by the Los Padres National Forest and CDPR, while the remaining 74 percent is privately owned. Unit 18 is occupied, and populations of California red-legged frogs are found throughout the drainage from the headwaters to the coast. This unit provides connectivity from the Elkhorn Slough unit to the more southern coastal units.

Unit 19. The Pinnacles Unit

Unit 19 consists of two watersheds, Gloria Lake and George Hansen Canyon, in San Benito and Monterey counties. This unit encompasses approximately 11,051 ha (27,309 ac), of which 57 percent is managed by the NPS and BLM; the remaining 43 percent is privately owned. Unit 19 is occupied and is representative of the inner coast range. The unit provides connectivity between the Pajaro River and other populations to the north and populations in southern Monterey County and northern San Luis Obispo County.

Unit 20. Estrella River/Cholame Creek Unit

Unit 20 consists of the drainages comprising the Cholame Creek, Estrella River, and the Saw Tooth Ridge watersheds in Monterey, San Luis Obispo, and Kern counties. The unit encompasses approximately 159,576 ha (394,325 ac), of which 99 percent is privately owned and the remaining 1 percent is federally managed. Unit 20 is occupied by a large population. The unit contains areas in a unique ecological setting of springs, wetlands and vernal pools in a very dry ecological setting. This unit also provides connectivity between inner and outer Coast Ranges and into the Transverse Ranges.

Unit 21. San Simeon Unit-Morro Bay Unit

Unit 21 consists of the coastal watersheds of San Luis Obispo County from Arroyo de la Cruz south to Los Osos Creek. The unit encompasses approximately 84,757 ha (209,445 ac), of which 94 percent is privately owned; the remaining 6 percent is managed by CDPR and Federal agencies. Unit 21 is occupied and contains several core populations of California red-legged frogs. This unit also supports a unique ecological setting, representative of the central coastal oak savannah grassland. This unit also provides connectivity from the outer Coast Range in Monterey County into the Transverse Ranges in San Luis Obispo and Santa Barbara counties.

Unit 22. Lopez Lake-Arroyo Grande Creek Unit

Unit 22 consists of the watersheds of Arroyo Grande Creek and its tributaries in San Luis Obispo County. The unit encompasses approximately 34,500 ha (85,254 ac), of which 79 percent is privately owned and the remaining 21 percent is managed by Los Padres National Forest and BLM. Unit 22 is occupied and provides habitat connectivity from the San Simeon Unit-Morro Bay Unit down into the Sisquoc River Unit and Transverse Range.

Unit 23. Coastal Dunes Unit

Unit 23 consists of coastal watersheds comprising the coastal dune ponds from Arroyo Grande south to San Antonio Creek in San Luis Obispo and Santa Barbara counties. The unit encompasses approximately 21,358 ha (52,782 ac), of which 3 percent is managed by Federal, State, and local municipalities (primarily Service and CDPR), with the remaining 97 percent in private ownership. Unit 23 is occupied and represents a core population occupying a unique coastal dune system. This unit also provides connectivity between the Lopez Lake-Arroyo Grande Creek Unit down into the Santa Ynez River Unit.

Unit 24. Santa Ynez River Unit

Unit 24 consists of watersheds forming the Santa Ynez River in Santa Barbara County. The unit encompasses approximately 98,744 ha (244,004 ac), of which approximately 60 percent is privately owned; the remaining 40 percent is managed by the BOR and Los Padres National Forest. Unit 24 is occupied and contains core populations. Frogs are found on the Santa Ynez River from the headwaters to the estuary. The headwaters provide connectivity to the Sisquoc River Unit and the Matilija-Sespe-Piru Creek Unit. This unit provides essential connectivity from coastal dune systems, up the Santa Ynez River to the headwaters of the Transverse Range.

Unit 25. Sisquoc River Unit

Unit 25 consists of watersheds forming the drainages of the Sisquoc River in Santa Barbara County. These include the Cherokee Spring, Ernest Blanco Spring, Horse Canyon, La Brea Creek, Manzano Creek, Peach Tree Spring, and the Lower Sisquoc River watersheds. The unit encompasses approximately 49,284 ha (121,785 ac), of which 39 percent is privately owned, and 61 percent is managed by the Los Padres National Forest. Unit 25 is occupied. This unit represents a core population that provides connectivity from Lopez Lake-Arroyo Grande Creek Unit into the westernmost portion of the Transverse Ranges. It is also the only undammed river included as critical habitat in this region; for this reason, the threats of nonnative fish are minimal.

Unit 26. Coastal Santa Barbara Unit

Unit 26 consists of coastal tributaries including the Bear Creek watershed, east to and including the Ellwood Canyon watershed in Santa Barbara County. The unit encompasses approximately 39,977 ha (98,791 ac), of which 23 percent is managed by the Los Padres National Forest and the CDPR; the remaining 77 percent is privately owned. Unit 26 is occupied by numerous small populations. It contains a unique ecological setting: numerous and relatively small watersheds along a south-facing coastal terrace drain directly into the Pacific Ocean. This type of habitat is not found elsewhere in California. Populations in this unit may play an important role in stabilizing populations in tributaries to the Santa Ynez River, which is affected by agriculture, water management, and non-native species.

Unit 27. Matilija-Sespe-Piru Creek Unit

This unit consists of watersheds that comprise portions of the Matilija, Sespe, and Piru Creek drainages in Santa Barbara, Ventura, and Los Angeles counties. The unit encompasses approximately 126,955 ha (313,716 ac), of which 96 percent is managed by the Los Padres National Forest and 4 percent is privately owned. Unit 27 is occupied and provides connectivity across the Transverse Ranges from the Santa Ynez River Unit to the San Francisquito-Amargosa Creek Unit. The Sespe Creek area, which includes portions of the Sespe Wilderness and provides the primary east-west connectivity, currently supports large

numbers of bullfrogs and predatory fish and is in need of special management.

Unit 28. San Francisquito-Amargosa Creek Unit

This unit consists of San Francisquito and Amargosa Creeks and the intervening drainages in Los Angeles County, including all or parts of the Lancaster, Rock Creek, Acton, Bouquet Eastern, Mint Canyon, and Sierra Pelona watersheds. The unit encompasses approximately 42,851 ha (105,890 ac), of which 99 percent is privately owned; the remaining 1 percent is primarily managed by the Angeles National Forest. Unit 28 is occupied, supporting a substantial core population and may be a source population for units to the south and west. This unit also supports the only known population occupying a drainage flowing into the Mojave Desert.

Unit 29. Malibu Coastal Unit

This unit consists of the upper coastal watersheds in the Santa Monica Mountains of Ventura and Los Angeles counties that drain into the Pacific Ocean near Malibu, including the West Las Virgenes Canyon, Lindero Canyon, Sherwood, Triunfo Canyon, East Las Virgenes Canyon, and Monte Nido watersheds. The unit encompasses approximately 21,235 ha (52,475 ac), of which approximately 67 percent is privately owned and 33 percent is managed in part by the NPS, CDPR, and local municipalities. Unit 29 contains one occupied drainage; California red-legged frogs have likely persisted in this drainage because of its isolation from the nonnative predators which are prevalent in most drainages in this recovery unit. Unit 29 contains all of the constituent elements, in addition it supports a habitat mosaic of coastal sage scrub, coast live oak woodlands, and grasslands that is substantially different from habitat contained in other units.

Unit 30. Santa Rosa Plateau/Santa Ana Mountains Unit

This unit consists of portions of the watersheds comprising the Santa Rosa Plateau and the Santa Ana Mountains in Riverside and San Diego counties, including De Luz Creek, Murrieta, and San Mateo Canyon watersheds. The unit encompasses approximately 23,319 ha (57,627 ac), of which approximately 69 percent is managed by the U.S. Forest Service (Forest Service), and approximately 31 percent is privately owned (a portion of which is owned by The Nature Conservancy).

The unit includes habitat essential to the conservation of the California red-legged frog, and is within a core recovery area, as defined in the draft Recovery Plan. This unit contains a small, genetically unique population on The Nature Conservancy's Santa Rosa Plateau Ecological Reserve (Reserve). This unit is the focal point of recovery efforts essential for the conservation of the California red-legged frog and its genetic diversity in southern California. The Reserve and adjacent watershed lands contain riparian habitat with the primary constituent elements essential to the maintenance of the California red-legged frog population and the re-establishment of the subspecies in southern California. A recovery program is currently being implemented on the Reserve that includes habitat restoration, nonnative species/predator removal, and augmentation of the red-legged frog population. Preliminary discussions have been initiated with the Cleveland National Forest concerning re-establishment of California red-legged frogs in the San Mateo watershed. Additionally, The Nature Conservancy has acquired lands between the current Reserve and Cleveland National Forest, and intends to acquire additional lands in this corridor to add to the Reserve. Habitat restoration, and nonnative predator management activities are being conducted in these areas, and these lands are being evaluated for possible red-legged frog re-establishment.

Unit 31. Tujunga Unit

This unit consists of portions of the Tujunga watersheds in Los Angeles County. It encompasses approximately 29,744 ha (73,500 ac), of which 100 percent is managed by the Angeles National Forest. This unit contains habitat essential to the conservation of California red-legged frogs in southern California and is within a core recovery area as defined in the draft Recovery Plan. Red-legged frogs are not known to currently occupy this unit, but numerous populations have been historically documented within the boundaries of the unit and adjacent Forest Service lands. This unit is a focal point for reestablishment of the California red-legged frog in southern California. Preliminary discussions have been initiated with the Angeles National Forest concerning the re-establishment project, in addition to nonnative species management and habitat restoration.

Effect of Critical Habitat Designation

Section 7 Consultation

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. 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, including the Service, 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 proposed or designated. 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. 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. 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 (action agency) must enter into consultation with us. Through this consultation, we would ensure that the permitted actions do not destroy 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 seek to 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 Director believes would avoid 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 conference 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. Conference reports assist the agency in eliminating conflicts that may be caused by the proposed action, and may include recommendations on actions to eliminate conflicts with or adverse modifications to proposed critical habitat. 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 an opinion that is prepared according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

Activities on Federal lands that may affect California red-legged frogs or its critical habitat will require section 7 consultation. Activities on private or State lands requiring a permit from a Federal agency, such as a permit from the Corps under section 404 of the Clean Water Act, a section 10(a)(1)(B) permit from the Service, or some other Federal action, including funding (*e.g.*, Federal Highway Administration (FHA), Federal Aviation Administration, or Federal Emergency Management Agency (FEMA)), will also continue to 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 appreciably reduce the value of critical habitat for both the survival and recovery of the California red-legged frog. Within critical habitat, this pertains only to those areas containing the primary constituent elements. We note that such activities may also jeopardize the continued existence of the species.

To properly portray the effects of critical habitat designation, we must first compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. Section 7 prohibits actions funded, authorized, or carried out by Federal agencies from jeopardizing the continued existence of a listed species or destroying or adversely modifying the listed species' critical habitat. Actions likely to ''jeopardize the continued existence'' of a species are those that would appreciably reduce the likelihood of the species' survival and recovery. Actions likely to ''destroy or adversely modify'' critical habitat are those that would appreciably reduce the value of critical habitat for the survival and recovery of the listed species.

Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species. Given the similarity of these definitions, actions likely to destroy or adversely modify critical habitat would almost always result in jeopardy to the species concerned, particularly when the area of the proposed action is occupied by the species concerned. Designation of critical habitat in areas occupied by the California red-legged frog is not likely to result in a regulatory burden above that already in place due to the presence of the listed subspecies.

Federal agencies already consult with us on activities in areas currently occupied by the subspecies to ensure that their actions do not jeopardize the continued existence of the subspecies. These actions include, but are not limited to:

(1) Sale, exchange, or lease of lands managed by the BLM, BOR, Department of Defense (DOD), DOE, NPS, or Forest Service;

(2) Regulation of activities affecting waters of the United States by the Army Corps under section 404 of the Clean Water Act, with the exception of maintenance activities on ponds located on private lands for the express purposes of maintaining the area to water stock;

(3) Regulation of water flows, water delivery, damming, diversion, and channelization by the BOR and the Corps or other water transfers, diversion, or impoundment, groundwater pumping, irrigation activity that causes barriers or deterrents to dispersal, inundates or drains habitat, or significantly converts habitat;

(4) Regulation of grazing, recreation, mining, or logging by the BLM, BOR, DOD, or NPS;

(5) Funding and implementation of disaster relief projects by the FEMA, including erosion control, flood control, streambank repair to reduce the risk of loss of property;

(6) Funding and regulation of new road construction or road improvements by the FHA;

(7) Funding of construction or development activities by the Department of Housing and Urban Development or other agencies that destroy, fragment, or degrade suitable habitat;

(8) Clearing of vegetation and hydrological modifications by the DOE or other agencies; and

(9) Promulgation of air and water quality standards under the Clean Air Act and the Clean Water Act and the clean up 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 EPA.

With the exception of the two unoccupied units, all lands designated as critical habitat are within the geographic range of the California red-legged frog and are occupied by the subspecies, and/or are likely to be used by the subspecies, whether for foraging, breeding, growth of larvae and juveniles, intra-specific communication, dispersal, migration, genetic exchange and sheltering. Federal agencies already consult with us on activities in areas currently occupied by the subspecies, or if the subspecies may be affected by the action, to ensure that their actions do not jeopardize the continued existence of the subspecies. Furthermore, in unoccupied habitat, we are only designating federally managed land as critical habitat. Thus, we do not anticipate substantial additional regulatory protection will result from critical habitat designation.

Relationship of Critical Habitat to Military Lands

Exclusions Under Section 3(5)(A)

The Sikes Act Improvements Act of 1997 (Sikes Act) requires each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an

Integrated Natural Resources Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found there. Each INRMP includes an assessment of the ecological needs on the installation, including needs to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. We consult with the military on the development and implementation of INRMPs for installations with listed species. We believe that bases that have completed and approved INRMPs that address the needs of the species generally do not meet the definition of critical habitat discussed above, as they require no additional special management or protection.

Therefore, we do not include these areas in critical habitat designations if they meet the following three criteria: (1) A current INRMP must be complete and provide a conservation benefit to the species; (2) the plan must provide assurances that the conservation management strategies will be implemented; and (3) the plan must provide assurances that the conservation management strategies will be effective, by providing for periodic monitoring and revisions as necessary. If all of these criteria are met, then the lands covered under the plan would not meet the definition of critical habitat.

Vandenberg Air Force Base completed an INRMP in 1997 prior to the passage and implementation of the Sikes Act Improvements Act of 1997. While we did not specifically participate in its development, this older plan does provide conservation measures for the California red-legged frog, as well as for the management of important wetland habitats across the base. The INRMP provides management direction on conserving listed and imperiled species and their habitats on the base. Known frog sites are protected from disturbance from human activities and grazing through measures appropriate to the given situation. Vandenberg's INRMP specifies monitoring of California red-legged frog populations on the base, and periodic surveys to provide continuous evaluation of the subspecies' status at known and new sites identified on the base. In addition, Vandenberg actively consults with us on all actions that may affect California red-legged frogs on the base, and has implemented conservation measures as recommended. Therefore, we have determined that lands on Vandenberg Air Force Base do not meet the definition of critical habitat, and have not been included in this final designation of critical habitat for the California red-legged frog, under the section 3(5)(A) definition.

Exclusions Under Section 4(b)(2)

In contrast to Vandenberg Air Force Base, other military installations within the area proposed as critical habitat for the California red-legged frog have not yet completed their INRMPs. Camp San Luis Obispo (CSLO) and Camp Parks Reserve Forces Training Area (Camp Parks) have not yet completed their INRMPs, and both bases contain habitat for the frog. The proposed critical habitat encompassed more than 90 percent of both bases. Subsection 4(b)(2) of the Act allows us to exclude areas from critical habitat designation where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species.

(1) *Benefits of Inclusion.* The principal benefit of any designated critical habitat is that activities in such habitat that may affect it require consultation under section 7 of the Act. Such consultation would ensure that adequate protection is provided to avoid adverse modification of critical habitat. In the absence of designated critical habitat, this consultation will not look specifically at the issue of adverse modification of critical habitat; however, it will look at the very similar concept of jeopardy to the listed species. Our experience is that, under most circumstances, consultations under the jeopardy standard will reach the same result as consultations under the adverse modification standard. Implementing regulations (50 CFR Part 402) define ''jeopardize the continued existence of'' and ''destruction or adverse modification of'' in virtually identical terms. Jeopardize the continued existence of means to engage in an action ''that reasonably would be expected * * * to reduce appreciably the likelihood of both the survival and recovery of a listed species.'' Destruction or adverse modification means an ''alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species.'' Common to both definitions is an appreciable detrimental effect on both survival and recovery of a listed species, in the case of critical habitat by reducing the value of the habitat so designated. Thus, actions satisfying the standard for adverse modification are nearly always found to also jeopardize the species concerned, and the existence of a critical habitat designation does not materially affect the outcome of consultation. Additional measures to protect the habitat from adverse modification are not likely to be required.

We have determined that the benefits of designating critical habitat on CSLO and Camp Parks are small. The primary benefit of designation is the prohibition on destruction or adverse modification of critical habitat under section 7 of the Act. However, all frog habitat on CSLO and Camp Parks is occupied, and we believe that section 7 consultation on any proposed action on these bases that would result in an adverse modification conclusion would also result in a jeopardy conclusion. In addition, they have a statutory obligation under the Sikes Act to complete INRMPs. As noted above, we expect that, when completed and adopted, these INRMPs will provide equal or greater protection to California red-legged frog habitat on the bases than a critical habitat designation.

(2) *Benefits of exclusion.* CSLO and Camp Parks are training facilities managed by the California Army Reserve National Guard (CA ARNG) and the U.S. Army (Army), respectively. Their missions are to provide a major training area for National Guard and U.S. Army Reserve troops for overseas deployment, and to protect public safety during emergency disasters. During the public comment period for the proposal, CSLO and Camp Parks concluded that the designation, if it were to become final, would seriously limit their ability to conduct their critical training activities. They conclude that a final designation that includes these installations would likely result in delays in training and closure of areas to allow for reinitiation of section 7 consultation on critical habitat. They asserted that the designation will have a detrimental effect on the ability of the CA ARNG and Army to meet their training mission.

Because the INRMPs for these two bases have not yet been completed and approved, the lands on these bases currently meet the definition of critical habitat. However, we have determined that it is appropriate to exclude CSLO and Camp Parks from this critical habitat designation under section 4(b)(2). The primary benefit of excluding CSLO and Camp Parks is to ensure that their mission-critical military training activities can continue without interruption while the INRMPs are being completed.

CSLO's INRMP is scheduled for completion and implementation in November 2001. We fully expect that, once the INRMP is completed and

approved, areas of the base included in the proposed critical habitat designation will no longer meet the definition of critical habitat, as they will require no additional special management or protection. Camp Parks has worked with us and developed an Endangered Species Management Plan (ESMP). They are currently working on completing their INRMP. Camp Parks' ESMP was drafted specifically for California red-legged frogs and includes nonnative predator control. Although the ESMP has not been finalized, Camp Parks has already implemented several portions of the plan.

Training activities are ongoing, and the CA ARNG and Army believe that by implementing specific conservation measures, their training activities are not likely to adversely affect California red-legged frogs on the bases, ensuring compliance with section 7(d) of the Act. In particular, CSLO considers all permanent and intermittent waterways and riparian areas to be sensitive habitat and provides buffers. Sections of Chorro Creek, several ponds, springs and reservoirs have been fenced to exclude military training activities and cattle grazing. Although avoiding these areas constrains training activities to some degree, the effectiveness of their overall mission is not compromised. Camp Parks has also identified essential California red-legged frog habitat and has designated these areas as sensitive habitat areas. Further, Camp Parks is currently implementing measures to promote the conservation of California red-legged frogs by implementing control of nonnative predators.

The proposed critical habitat designation included about 90 percent of both CSLO and Camp Parks. If these areas are included in the final designation of critical habitat for the California red-legged frog, the CA ARNG and U.S. Army would be compelled by their interpretation of the Act to significantly curtail necessary training within the area designated as critical habitat, to the detriment of mission-critical training capability, until the reinitiation of consultation is concluded. As a result, this would greatly restrict use of the installation, severely limiting CSLO's and Camp Parks' utility as training sites.

We conclude that the benefits of excluding Camp San Luis Obispo and Camp Parks exceed the benefits of including the installations in the critical habitat designation. Further, we have determined that excluding the bases will not result in the extinction of the red-legged frog, as numerous frog core areas remain within the final critical habitat designation and sections 7(a)(2) and 9 still apply to the activities affecting red-legged frogs on CSLO and Camp Parks.

Should additional information become available that changes our analysis of the benefits of excluding any of these (or other) areas compared to the benefits of including them in the critical habitat designation, we may revise this final designation accordingly. Similarly, if new information indicates any of these areas should not be included in the critical habitat designation because they no longer meet the definition of critical habitat, we may revise this final critical habitat designation. If, consistent with available funding and program priorities, we elect to revise this designation, we will do so through a subsequent rulemaking.

Summary of Comments and Recommendations

In the September 11, 2000, proposed rule (65 FR 54892), we requested all interested parties to submit comments on the specifics of the proposal including information, policy, treatment of HCPs, and proposed critical habitat boundaries as provided in the proposed rule. The first comment period closed on October 11, 2000. The comment period was reopened from October 19, 2000, to November 20, 2000 (65 FR 62690), to allow for additional comments on the proposed rule. The comment period was reopened from December 21, 2000, to January 22, 2001 (65 FR 80409), to accept comments on both the proposed designation and the draft economic analysis. We accepted comments received from September 11, 2000, to February 2, 2001, and entered them into the administrative record for the rule.

We contacted all appropriate State and Federal agencies, Tribes, county governments, elected officials, and other interested parties and invited them to comment. In addition, we invited public comment through the publication of notices in the following newspapers throughout California: the Sacramento Bee, the Mountain Democrat, the Riverside Press-Enterprise, The Press Democrat, the Contra Costa Times, the Marin Independent Journal, the Record Searchlight, Los Angeles Times, San Luis Obispo Telegram Tribune, the Santa Barbara News, the Monterey Herald, and Santa Cruz Sentinel. The inclusive dates of these publications were September 8, 11, 12, and 13, 2000, for all papers. In these notices, and the proposed rule, we announced the dates and times of four public hearings that were to be held on the proposed rule. These hearings were in Ventura (September 19, 2000), San Luis Obispo (September 21, 2000), Dublin (September 26, 2000), and Sacramento (September 28, 2000). Transcripts of these hearings are available for inspection (see **ADDRESSES** section).

In addition to these announcements, we published display ads in the following newspapers specifically for the public hearings: Contra Costa Times, Tri-Valley Herald, Marin Independent Journal, Chico Enterprise Record, and the Mountain Democrat. We also sent out notices of the reopening of the comment period to all parties on a mailing list for California red-legged frog information. Additionally, we held two informational meetings, one on January 5 in San Luis Obispo and a subsequent meeting on January 7 in Dublin. Specific notices were published in the Sacramento Bee, the Contra Costa Times, The Press Democrat, the Record Searchlight, the Lompoc Record, and the San Luis Obispo Tribune to announce these two informational meetings.

We requested five herpetologists, who have familiarity with California red-legged frogs and/or amphibian metapopulation dynamics, to peer review the proposed critical habitat designation. Two of the peer reviewers submitted comments on the proposed critical habitat designation, one declined to comment, and two did not respond.

We received a total of 73 oral and 1,985 written comments during the 3 comment periods. In total, oral and written comments were received from 11 Federal agencies, 5 State agencies, 2 State officials, 83 local governments, and 1,957 private individuals or organizations. We reviewed all comments received for substantive issues and new information regarding critical habitat and the California red-legged frog. Of the 2,058 comments we received, 1,608 supported designation, 240 were opposed to it, and 210 provided information or declined to oppose or support the designation. Similar comments were grouped into 4 general issues relating specifically to the proposed critical habitat determination and draft economic analysis on the proposed determination. These are addressed in the following summary.

Issue 1: Biological Justification and Methodology

(1) *Comment:* One commenter stated amphibian species are declining worldwide for unknown reasons and it is, therefore, inappropriate to designate critical habitat without understanding reasons for the decline.

Our Response: We agree that there is substantial evidence that amphibian

populations are declining worldwide, and a number of hypotheses have been developed to address these declines. However, while California red-legged frogs may be subject to factors causing worldwide amphibian declines, the decline in California red-legged frog populations is also a result of habitat loss and alteration, over harvesting, and the introduction of nonnative predators that occurred over a longer period of time. The populations that remain continue to face adverse effects from habitat loss and alteration, and nonnative predators. Many of these habitats are in need of special management and protection to ensure the long-term survival and conservation of California red-legged frogs.

(2) *Comment:* Several commenters felt designating critical habitat has no effect on nonnative predators, which are the main cause of decline. Several commenters requested the Service exclude areas with populations of nonnative predators or questioned the validity of designating areas inhabited by nonnative predators. Another commenter stated, given the documented extinctions from areas where the primary constituent elements are known to exist, the proposed designation would not appear to achieve the stated goals for survival.

Our Response: We agree that nonnative predators continue to impact California red-legged frog populations, and our ability to recover the subspecies will be related to how effectively we are able to work with Federal, State, and local agencies, and in partnerships with individuals to develop management strategies to address this impact. However, critical habitat, by definition, contains those areas that are essential to the conservation of the species and may require special management considerations or protection. We believe that the control of nonnative predators will be an important factor in our efforts to recover California red-legged frogs and thus, should be considered a special management consideration.

(3) *Comment:* The proposed rule relies entirely on science of the last 20 years and ignores over-harvesting of frogs in the early 1900s. Several commenters also stated many relevant factors are of concern only because of historic over-harvesting and the presence of nonnative predators.

Our Response: We agree that over-harvesting of California red-legged frogs in portions of California is, in part, responsible for the decline of the subspecies, and this was exacerbated by the introduction of nonnative predators. However, there are areas where the subspecies has declined even though harvesting did not occur (*e.g.,* southern California). Many of the factors leading to population declines in California red-legged frogs are still occurring today (*e.g.,* habitat loss and alteration and colonization by nonnative predators). These factors illustrate that the species habitat is in need of special management.

(4) *Comment:* One commenter stated that current data from satellite and infrared aerial photography, or multi-spectral high resolution orthophotographs, can be used to identify suitable habitat within each unit. One commenter stated the Service has access to such information, as well as data from section 7 consultations, biological opinions, surveys, and HCPs that would inform its decision on what habitat is critical.

Our Response: We used System Pour l'Observation de la Terre (SPOT) data and digital orthographic quarter quadrangles to exclude developed areas such as towns, housing subdivisions, or other developed lands unlikely to provide habitat for California red-legged frogs. However, the scale of these data make them inappropriate to use as a tool to specifically identify suitable aquatic habitat such as water depth and persistence. For example, stream habitats may possess suitable breeding habitats, but they can not be identified using these data. Therefore, we could not specifically identify each habitat as this would have resulted in over-emphasis of pond habitats, and an under-emphasis in stream habitats. This would be problematic as frogs in the southern portion of the range are found primarily in stream habitats with deep pools.

The proposed rule was largely based on data collected by scientists conducting research on California red-legged frogs under section 10(a)(1)(A) permits, consulting biologists interacting with Service staff, conducting site assessments, surveys, informal and formal consultations, as well as working with State biologists. Service staff have used this information as the best available scientific and commercial data available to prepare the proposed designation.

(5) *Comment:* Some commenters voiced concern that their property was within proposed critical habitat boundaries even though the land contained no California red-legged frogs or their habitat.

Our Response: We recognize that not all parcels of land designated critical habitat will contain the habitat components essential to the conservation of California red-legged frogs. The court-ordered time line, and the use of planning watershed (CAL WATER 2.2) as the minimum mapping units in defining critical habitat boundaries for California red-legged frogs, did not allow us to exclude all developed areas such as towns, housing developments, or other developed lands unlikely to provide habitat for California red-legged frogs. However, because these areas do not contain one or more of the primary constituent elements for the California red-legged frog, Federal actions limited to these areas will not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

(6) *Comment:* Several parties commented on the methodologies used to designate critical habitat. The broad or landscape scale of the proposed critical habitat does not specifically identify the locations of primary constituent elements for the California red-legged frog. One commenter stated that it was inappropriate to use planning watersheds as the minimum mapping unit upon which to base amphibian population management actions. Another commenter questioned why the core areas identified in the draft Recovery Plan were not used as the minimum mapping unit and felt the Service did not adequately explain the inconsistencies between the two approaches. The use of landscape methodologies instead of specific mapping techniques violated the Act and implementing regulations. The Service's assertion that only areas containing the primary constituent elements are being proposed as critical habitat is confusing and does not allow for a discriminate boundary.

Our Response: We are required to describe critical habitat (50 CFR 424.12(c)) with specific limits using reference points and lines as found on standard topographic maps of the area. We used planning watersheds (CALWATER 2.2) as the minimum mapping unit to delineate proposed critical habitat units because watersheds represent functional, hydrologic management units that allow for efficient evaluation of factors that affect the quality of aquatic habitat and thus, are extremely relevant to amphibian populations. The use of planning watersheds also allowed us to delineate critical habitat that protects habitat quality, breeding and nonbreeding habitat, and dispersal habitat in a manner consistent with the overall goal of protecting and promoting metapopulations. Impacts upstream or downstream of critical habitat units could directly impact the proposed units. Furthermore, mapping on a

watershed basis takes into account the ecological characteristics of the subspecies and utilizes them to delineate what is important and critical to their long-term survival and recovery. The core areas identified within the draft Recovery Plan were developed using both CALWATER planning watersheds and property lines. Once we started working on the critical habitat designation, we chose to use planning watersheds. We believe that this made biological sense because California red-legged frogs would not be affected by property boundaries. Given the range of the frog, it would also have been difficult to rely on Public Land Survey (PLS) lines as several of the proposed areas are within Spanish land grants and PLS information is not readily available. Additionally, we believe that the use of PLS lines doesn't make biological sense. We specifically utilized this process to avoid confusion. We believed that the use of UTM data to specifically describe the meets and bounds of the critical habitat boundary would make it difficult for the public to identify critical habitat, but that the use of watersheds would allow individuals to identify specific watersheds they were interested in for comparison with what was published in the **Federal Register**.

In the preparation of the final determination, we had more detailed GIS coverages that allowed us to reduce our minimum mapping unit from planning watersheds to a 100-m UTM grid square. This allowed for the exclusion of many areas that do not contain the primary constituent elements for California red-legged frogs, and the drawing of more refined critical habitat boundaries.

(7) *Comment:* Some commenters were concerned that no data or research were cited in the primary constituent elements section.

Our Response: The descriptions of the primary constituent elements for the California red-legged frog are based on a compilation of data from peer-reviewed published literature, unpublished or non-peer-reviewed survey or research reports, the draft Recovery Plan, and biologists knowledgeable about the subspecies and its habitat. The primary constituent elements, as described, represent our best estimate of those habitat features that are essential for the conservation of core California red-legged frog populations, and for dispersal and connectivity between these populations. In our response to specific comments and in other pertinent areas, we have listed citations where it is necessary. Also, a copy of all supporting documentation used in the development of this determination is in the administrative record and available for inspection at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

(8) *Comment:* Several commenters felt the description of the primary constituent elements is vague and would not be consistently applied. Several of the commenters also requested clarification on various aspects of the primary constituent elements. Several commenters did not feel the use of landscape approach was specific enough or questioned whether the use of landscape analysis was even legal.

Our Response: The description of the primary constituent elements for California red-legged frogs is based on the best available scientific and commercial data regarding the subspecies. Although California red-legged frogs are associated with aquatic habitat, all life stages can be found in a variety of natural and man-made aquatic habitat. Furthermore, the use of upland habitat has been documented for frogs in both mesic (wet) and xeric (dry) climates. Upland habitat is also essential to maintain the integrity of aquatic areas. Finally, the ability to disperse to other breeding habitat is essential to maintain genetic diversity and allow for range/population expansion. For this reason, the primary constituent elements are categorized to capture the habitat types that are essential for the conservation of source populations and connectivity between source populations.

(9) *Comment:* Several commenters had specific comments relating to the aquatic component of the primary constituent elements. Some commenters believed the 2 km (1.25 mi) dispersal distance was arbitrary; another questioned the importance of seasonal wetlands; and another suggested the use of stream flow data to help define critical habitat. One commenter inquired into the minimum distance between two breeding locations to allow these habitats to be considered independent from one another; one commenter believed the 0.2 m (7.87 in) depth of breeding habitat was insufficient; and another commenter asked if suitable breeding habitat was defined by documented breeding or by suitable habitat, and if the presence of nonnative predators affected this determination, and what was the definition of still and slow-moving waters, large reservoir, and waters edge.

Our Response: The 2 km (1.25 mi) dispersal distance was determined by research conducted on radio-telemetered California red-legged frogs (Scott *in litt.* 2000, Fellers *in litt.* 2000, and Jennings *in litt.* 2000). The 2 km (1.25 mi) distance represents the distance frogs can disperse through xeric areas. Therefore, we feel that the dispersal distance is a conservative estimate. Seasonal wetlands represent additional habitat within the landscape that can be used by frogs as stop-over locations during dispersal events (Thomas Reid and Associates 1998; Bobzien *et al.,* 2000). These seasonal wetlands may be an important component of California red-legged frogs, dispersal capabilities.

We agree that stream flow data may provide a component of the necessary information in describing suitable breeding habitat. Unfortunately, we are not aware of any information available regarding stream flows and California red-legged frog breeding and nonbreeding habitat. The only citation available is from Jennings (1988) that describes ''slow and still-moving water''. We believe no minimum distance can be selected that would reliably identify a breeding site as independent. Breeding habitats will be considered independent if tadpoles are not capable of utilizing each of the two or more breeding habitats. For pond environments, this scenario is obvious, and for stream breeding populations it is possible for tadpoles to reach downstream pools, but it would be difficult for tadpoles to travel upstream due to slope, current, and barriers. Based on comments from individuals and from a peer reviewer, we agree that 0.2 m (7.87 in.) depth is too shallow for consistent breeding success and, furthermore, we are increasing the depth of suitable habitat to 0.5 m (20 in.).

We define suitable breeding habitat as aquatic habitat no less than 0.5 m (20 in.) deep and that consists of virtually all still or slow-moving fresh water bodies, including natural and man-made (*e.g.,* stock) ponds, backwaters within streams and creeks, marshes, lagoons, and dune ponds, except deep lacustrine water habitat (*e.g.,* deep lakes and reservoirs over 20 ha (50 ac) in size) inhabited by nonnative predators (note that the presence of nonnative predators only applies to large reservoirs; smaller bodies of water could benefit from special management activities such as removing nonnative predators from the habitat). Aquatic habitat used for breeding must maintain water during the entire tadpole rearing season (at least March through July). However, during periods of drought or less than average rainfall, these breeding sites may not hold water long enough for individuals to complete metamorphosis,

but these sites would still be considered suitable breeding habitat. To be considered critical habitat, the aquatic components must consist of two or more breeding sites located within 2 km (1.25 mi) of each other, if at least one of the sites is also a permanent water source, or two or more breeding sites and a permanent water source located within 2 km (1.25 mi) of each breeding site, if the breeding sites are not permanent water sources. In addition, the sites must be connected by suitable dispersal habitat, described below.

(10) *Comment:* Several commenters had specific comments relating to the upland component of the primary constituent elements. One commenter felt the 150 m (500 ft) upland habitat component was arbitrary; one commenter questioned if annual grassland was suitable upland habitat, another questioned whether uplands downslope of suitable breeding habitat need 150 m (500 ft) of upland habitat to maintain the integrity of the watershed.

Our Response: While developing the proposed rule, we extensively studied the literature relating to watershed processes and their effects on ranid frogs, other amphibians, and other wildlife (see references throughout text). Unfortunately, there is a lack of information available to provide a specific distance to protect individuals and watershed integrity. The most revealing information came from Puget Sound, where Richter and Azous (1995 and 1997) found species richness was significantly lower in watersheds where more than 40 percent of the land area was developed. Furthermore, Schueler (1994) used evidence from studies examining macroinvertebrates and fishes to illustrate that it is difficult to maintain predevelopment stream quality when watershed development exceeds 10–15 percent impervious cover. For example, Klein (1979 in Schueler 1994) found that macroinvertebrate diversity consistently became poor when watershed imperviousness exceeded 10 to 15 percent. This has been supported by Schueler and Galli 1992, and Shaver *et al.,* (1994 in Schueler 1994). This loss of diversity has also been observed in fish (Klein 1979, Limburg and Schmidt 1990, both in Schueler 1994).

The lack of any real consistent number is not surprising as numerous factors including stream order, landscape topography, water quality parameters, habitat structure, pollutants, and nature of the development would all be significant factors in the watershed process. In our consultations, we routinely ask for avoidance of upland habitat found within 90 m (300 ft) of the edge of wetlands and riparian areas; avoidance of these areas provides some protection against changes in hydrology and water quality, and also protects suitable upland habitat adjacent to the proposed developed areas. Based on the best available commercial and scientific information, we believe a minimum of 90 m (300 ft) of upland habitat is essential for California red-legged frogs. This decision is based on information from frogs observed to inhabit 60 m (200 ft) from water (Bulger *in litt.*, 2000) and 30 to 90 m (100 to 300 ft) from water in eastern Contra Costa County (T. Tatarian *in litt.*, 2001).

Furthermore, frogs have been extirpated from areas where development exists adjacent to suitable breeding and nonbreeding habitat. In conclusion, there is a lack of data available to support our description of a 150 m (500 ft) upland habitat component. However, consistent with Service policy dealing with California red-legged frog consultations, observations of frogs inhabiting upland areas for extended periods of time, the importance of upland habitat for maintenance of hydrology, water quality, and overall ecosystem health, and known extirpations from developed watersheds, the upland component will include all upland areas 90 m (300 ft) from the edge of ordinary high water.

The commenter makes a good point that impacts in areas downslope of suitable breeding habitat may not affect suitable, essential aquatic habitat upstream. However, breeding habitats are rarely isolated (*e.g.,* breeding occurs in creeks and in ponds created in small tributaries with dams), and there is likely suitable, essential aquatic habitat downslope of breeding ponds, therefore these downslope areas will also include a 90 m (300 ft) upland habitat component. We feel that to remain consistent with observations of frogs inhabiting upland areas for extended periods of time, and the importance of the upland habitat for maintenance of hydrology, water quality, and overall ecosystem health, the upland component will include all upland areas 90 m (300 ft) from the edge of ordinary high water. Furthermore, California red-legged frogs could use these areas to forage or for cover.

Most California red-legged frogs found inhabiting upland areas tend to be found in dense vegetation such as under blackberry bushes (*Rubus* spp.) and dense scrub. Annual grassland may provide some cover, but it is likely that denser vegetation is preferred. Densely vegetated upland habitats do provide shelter to frogs inhabiting upland areas adjacent to suitable aquatic habitat; however, densely vegetated upland habitats are essential to maintain the integrity of California red-legged frog aquatic habitat, by providing the conditions essential for providing food, water, nutrients, and protection from disturbance necessary for normal behavior.

(11) *Comment:* Several commenters had specific comments relating to the dispersal component of the primary constituent elements: some commenters felt the 150 m (500 ft) dispersal width was arbitrary, and frogs can readily move through areas less than that width. Some questioned the types of land uses that could be considered barriers (*e.g.,* golf courses, camp grounds, recreation developments, trails, logging roads, county roads, and highways), and several commenters suggested that defining a road as a barrier should be based on the number of cars traveling at night because this is when amphibians typically disperse. Some commenters felt the 2 km (1.25 mi) dispersal distance between breeding habitats was arbitrary, while others believed it may exclude habitat that could prove essential to California red-legged frogs. Some commenters felt that the presence of bullfrogs and fish should be considered barriers.

Our Response: California red-legged frogs have been documented to disperse through uplands in movements that could be considered both random as well as straight-line to and from breeding ponds irrespective of slope and topography (Bulger *et al.,* 2000). Furthermore, juvenile red-legged frogs have been observed to make overland movements of nearly 1 km (0.6 mi) (Monk and Associates 1997a). We agree that dispersal corridors through wetland and riparian areas can be less than 90 m (300 ft) (*e.g.,* the upland habitat from the edge of ordinary highwater). Frogs have been observed to travel underneath bridges and through culverts with widths much less than 150 m (500 ft). It is likely that movements of adult frogs to and from breeding sites are not random; this is supported by Bulger *et al.,* (*in litt.* 2000) who found frogs to make straight-line movements between breeding and nonbreeding habitat. However, for dispersing juveniles who make overland movements, dispersal away from breeding habitats is likely random. This is supported by incidental trappings of the subspecies (Monk 1997a). Therefore, it is important to provide dispersal habitat of sufficient width to allow for the probability of juvenile frogs to find the dispersal area. There are no data on the use of corridors by California red-legged frogs, much less for any other ranid frog species. In

addition, we have required 45–90 m (150–300 ft) upland dispersal corridors to ensure California red-legged frogs can disperse between aquatic habitats. In a general description of dispersal corridors, Soule (1991) discusses the variable benefits and liabilities associated with corridor widths. Essential dispersal habitat for California red-legged frogs is based on providing a corridor of sufficient width to ensure that randomly dispersing juveniles can find the corridor and migrate to adjacent essential habitat. Therefore, the habitat connecting essential breeding locations and other aquatic habitat must be free of barriers and at least 90 m (300 ft) wide.

One of the peer reviewers questioned our view that lands such as row crops, orchards, vineyards, and pastures did not constitute barriers to California red-legged frog dispersal. The peer reviewer felt these areas may not be absolute barriers but rather a selective filter allowing some frogs through, and would clearly affect connectivity. This is supported by Schneeweiss and Schneeweiss (1997) who documented amphibian mortality on a recently fertilized field due to caustic burns associated with nitrogenous fertilizer. In addition, agricultural areas are often disced and free of vegetation during the periods California red-legged frogs are likely to be most active, therefore making them susceptible to predation. However, we are aware of documented sightings in areas surrounded by agriculture near Hollister in San Benito County as well as in the Elkhorn Slough area of Monterey County (CNDDB 2000). Therefore, it is reasonable to believe that California red-legged frogs are capable of moving through intensively managed agricultural areas, but these areas are likely not optimal dispersal habitats and may serve as habitat sinks. Other features such as camp grounds, recreation developments, trails, and logging roads likely are not barriers as frogs would be moving through these areas during rains at night when very little automobile traffic would be occurring. We agree with the commenter who suggested that we modify the definition of barrier to include only traffic patterns during the periods California red-legged frogs are the most active. Other features such as roads and highways with 30 cars per hour during the period of 10:00 p.m. and 04:00 a.m. would be considered a barrier, if these features possessed no bridges, culverts, or underpasses that would allow frogs to disperse along wetlands, streams, or straight-line movements. The use of 30 cars per hour is based on work by Kuhn (1987, in Reh and Seitz 1990), who estimated that 24 to 40 cars per hour killed 50 percent of common toad (*Bufo bufo*) individuals migrating across a road, while Heine (1987, in Reh and Seitz 1990) found that 26 cars per hour could reduce the survival rate of toads crossing roads to zero. In addition, Fahrig *et al.* (1995) found a significant negative correlation between traffic density and the density of anuran populations, and Westphal (*in litt.* 1997) documented the significance of mortality on and near Highway 1 in San Mateo County.

As discussed earlier, the 2 km (1.25 mi) dispersal distance was based on input from scientists who have monitored dispersing California red-legged frogs. Furthermore, anecdotal evidence from road surveys and California tiger salamander trapping (Westphal *in litt.* 2000; Monk and Associates 1997a and 1997b; and Morey, *in litt.* 2000) have shown that juvenile frogs can move at least 1 km (0.6 mi). One peer reviewer felt the maximum dispersal distance should be lowered to 1 km (0.6 mi) based on studies by Berven and Grudzien (1990) and Lann and Verboom (1990). Both studies illustrated frogs, on average, move up to 1 km (0.6 mi) and that distances greater than this impede the probability of recolonization. However, given the results from radio-telemetered California red-legged frogs making movements over 2 km (1.25 mi), comments from scientists conducting research on California red-legged frogs movements (including one of the peer reviewers), and data from Sjogren-Gulve (1994) who found extinction rates increase at distances greater than 2.8 km (1.75 mi), we believe 2 km (1.25 mi) is the best commercial and scientific data available. Based on the best available data, we believe that suitable breeding habitat beyond 2 km (1.25 mi) from other sites has such a low probability of being rescued from a localized extinction that these areas are not essential to the conservation of California red-legged frogs. However, those breeding habitats within 2 km (1.25 mi) represent suitable breeding habitats where the immigration and emigration of California red-legged frogs insures localized extinctions have a high probability of recolonization.

Although nonnative predators adversely affect California red-legged frogs, with the implementation of special management, these nonnative predators can be removed from essential breeding habitats. However, large reservoirs over 20 ha (50 ac) in size are not considered suitable aquatic habitat as it is not currently technically feasible to eradicate nonnatives from these areas. Therefore, we believe, with the exception of reservoirs over 20 ha (50 ac) in size, the presence of nonnative predators does not constitute a barrier.

(12) *Comment:* Some commenters felt the 2.2 million ha (5.4 million ac) being proposed as critical habitat represents the entire range of the subspecies and the Act prohibits such a broad designation. Several commenters felt there was a lack of data to support the importance of individuals and nonbreeding populations to the conservation of the subspecies. Some commenters stated there is no basis for designating unoccupied habitat because the Service has failed to determine these areas are essential.

Our Response: In proposing critical habitat for the California red-legged frog, we identified those areas that are essential to the conservation of the subspecies. The areas we proposed to designate as critical habitat provide all of those habitat components essential for the primary biological needs of California red-legged frogs as described in the draft Recovery Plan and defined by the primary constituent elements. We did not include all areas currently occupied by California red-legged frogs, but proposed those areas that possess a large population of frogs, represent unique ecological characteristics, or represent historic geographic areas where California red-legged frogs can be reestablished. This included initially proposing unoccupied areas in Plumas, Butte, Sierra, Yuba, El Dorado, Calaveras, and Tuolumne counties in the Sierra Nevada (however, since the publication of the proposed rule, we have excluded Unit 2 in Yuba, Sierra, Butte, and Plumas counties and Unit 4 in Calaveras County), and the San Gabriel Mountains in Los Angeles County in southern California. Ponds that support a small population of California red-legged frogs, but are not surrounded by essential upland habitat, or are cut off from other breeding ponds or permanent water sources by impassible dispersal barriers, would not be considered critical habitat. Furthermore, some locations in the Sierra Nevada and elsewhere, may be occupied by only a few individuals and/or nonbreeding populations. Areas proposed where the unit consists of occupied but nonbreeding populations is essential to the conservation of the subspecies because these individuals represent distinct genetic characteristics and the historic range of the subspecies. These units are also strong candidate areas for reestablishment due to a large amount of private and Federal support, and large amounts of Federal land. In order for future reestablishment to be

successfully completed, special management in these areas is needed, which includes the removal of nonnative predators and habitat restoration. Also, without designation of these areas as critical habitat, management actions that may promote nonnative predators may continue to be implemented and, thus, ensure that frogs will not be successfully reintroduced into these areas. For example, the unit to the south would allow for a significant reexpansion of the subspecies' range in the Transverse Range of southern California, and preservation of genetic diversity. Therefore, these areas are essential to the conservation of the subspecies.

(13) *Comment:* One commenter recommended the Service base critical habitat on an in-depth analysis of the characteristics in watersheds/regions which have a long history of occupancy and have survived past periods of land form alteration, drought, introduced species, and other cited causes of localized extinctions and population reductions.

Our Response: While devising the methodology to designate critical habitat, we used information from populations in the Bay Area of California and Santa Barbara which persist as a collection of subpopulations connected by individual dispersal events. These populations persist and flourish where suitable breeding and nonbreeding habitats are interspersed throughout the landscape and are interconnected by unfragmented dispersal habitat. Where this habitat mosaic exists, local extinctions may be counterbalanced by the colonization of new habitat or recolonization of unoccupied areas of suitable habitat. This scenario may be best exemplified by information collected from the U.S. Navy's Concord Weapons Station in Contra Costa County, where California red-legged frogs were rarely observed in the late 1980s, presumably due to the large number of bullfrogs in the area. However, by the late 1990s, California red-legged frogs were again abundant and bullfrogs were noticeably absent (Downard, *in litt.,* 1999). This observation strongly supports our assertion that it is essential for the long-term survival and recovery of the subspecies to protect those sites that appear to be unoccupied, but can be recolonized by dispersing individuals from nearby subpopulations.

(14) *Comment:* Some commenters feel there is very little data available to describe the dispersal behavior of California red-legged frogs and question the importance of dispersal to the survival of California red-legged frogs. Another commenter questioned the statement that the healthiest populations persist as subpopulations, exchanging genetic information through individual dispersal events and asked for evidence that genetic exchange occurs. The commenter also felt that the importance of adjacent unoccupied habitats may not be important to the survival and recovery of the subspecies as these locations may be ecological sinks.

Our Response: We strongly believe that dispersal may be the most important ecological characteristic of California red-legged frogs. Data from researchers studying the movement ecology of California red-legged frogs have documented dispersal events through riparian areas to and from breeding habitats, as well as making straight-line overland movements to and from breeding habitat, irrespective of slope. Furthermore, there is anecdotal evidence that juvenile red-legged frogs disperse at least 1 km (0.6 mi) away from breeding habitat. This information is the result of consulting biologists conducting surveys for California tiger salamanders (*Ambystoma californiense*) in eastern Alameda (Monk and Associates 1997a and 1997b) and Santa Clara counties (Brian Morey, *in litt.* 2000). In both locations, newly metamorphosed California red-legged frogs were found dispersing away from breeding habitat during rain events. Given the fact that California red-legged frogs live in a Mediterranean climate where long periods of drought are common, that ability to have individuals dispersing into extirpated habitats is extremely important to the long-term conservation of the subspecies. Breeding adults from neighboring subpopulations dispersing into adjacent areas will allow for genetic exchange between subpopulations. Given the documented dispersal characteristics of California red-legged frogs, and evidence that illustrates that California red-legged frog populations can increase upon removal of nonnative predators, we feel that designating unoccupied adjacent areas is important to the survival and the recovery of the subspecies. Areas that may be currently unsuitable habitat for California red-legged frogs due to the presence of nonnative predators, could become suitable if special management actions are initiated.

(15) *Comment:* Several commenters questioned the importance of a permanent water source. One commenter felt that there is no basis for the spatial relationship of the permanent water source to the breeding habitat because breeding ponds dry late in the summer when arid conditions would likely prohibit dispersal of California red-legged frogs. Another commenter felt that a permanent water source was not necessary, as frogs can live in uplands for an extended period of time and, therefore, only need water until the end of the breeding period.

Our Response: When we first started to work on the critical habitat proposal, staff from the three Service field offices located within the range of the subspecies, and who have had direct experience with California red-legged frogs, met and discussed some of the common attributes between the various areas. The only consistent feature present within the landscape was a permanent water source. Often the permanent water source is nothing more than a spring or seep, but these features play an important role in maintaining individuals during periods of drought. We agree that late season dispersal is unlikely in the more arid portions of the subspecies range. However, California red-legged frogs are known to inhabit small spring boxes in even the most arid portions of their range. During periods of drought, habitats like this may be the only suitable habitat available, as wetlands capable of supporting water through an extensive drought are large water bodies and are generally occupied by nonnative predators. Therefore, these small, permanent water sources are essential for providing safe, suitable nonbreeding habitat for California red-legged frogs until the favorable conditions return.

(16) *Comment:* Several commenters questioned the basis for using the 1,700 m (5,500 ft) elevation limit, and several commenters suggested using lower elevations as the limit, citing that frogs were only known from above 1,500 m (5,000 ft) in Tuolumne County.

Our Response: We based this demarcation on past observations of frogs inhabiting meadows at elevations of approximately 1,700 m (5,500 ft). We believe this represents the upper limit of known California red-legged frog occurrences. However, the three most recent sightings in the Sierra Nevada have been below 1,500 m (5,000 ft). Given these observations, and the historic sightings of occurrences up to 1,500 m (5,000 ft), we have excluded all lands above 1,500 m (5,000 ft) from the critical habitat designation.

(17) *Comment:* One commenter felt there are no data to support the statement that frogs will use natural and man-made habitats irrespective of vegetation cover.

Our Response: California red-legged frogs have been found inhabiting a variety of habitats including natural and

man-made habitats devoid of vegetation. California red-legged frogs have even been found to breed in ponds where vegetation was virtually absent. Although vegetation may play an important role in providing cover, researchers believe frogs are more often found in warm, open-water shallows with deeper water refuge areas used by adult frogs (Scott, *in litt.,* 2000).

(18) *Comment:* Some commenters questioned the statement that only 17 percent of the proposed designation is unoccupied, and that 90 percent of unoccupied habitat is privately owned. Other commenters stated watersheds were not occupied and assumed these areas were designated to lessen impacts to water quality of suitable habitat downstream. They further stated these unoccupied areas were too far away from occupied habitat to affect water quality and questioned their utility.

Our Response: With the exception of Units 5 and 31, critical habitat designated for California red-legged frogs is within the geographical area occupied by the subspecies and is likely used for breeding, sheltering, or dispersing. A California red-legged frog may not use breeding habitat on a daily basis, but the breeding habitat is still considered occupied. This differs from the common public perception that occupancy equates to the detectable presence of California red-legged frogs at all times. In those units we considered to be unoccupied, we proposed areas that were largely managed by Federal agencies. Within the final rule, we have excluded all non-federal lands from designation within unoccupied critical habitat units.

(19) *Comment:* Several commenters requested the revision of the methods section to include additional information on the criteria used to select critical habitat, and how were areas of occupancy, presence of source populations, areas with unique ecological significance, or areas important for dispersal identified. One commenter also questioned the use of 1985 as the cut-off date.

Our Response: Criteria used to identify critical habitat can be found in the ''Criteria Used To Identify Critical Habitat'' section. We considered a unit to be occupied if there were documented occurrences within the unit since 1985. This decision was based on our belief that the absence of sightings within the last 15 years in areas that have been at least generally surveyed was adequate evidence that frogs are likely to be extirpated from the area. Furthermore, we have used this year as a cutoff in agreements made between the Service and the Forest Service regarding occupancy determinations during informal consultation regarding the Sierra Nevada Framework process.

(20) *Comment:* One commenter suggested a method to evaluate how well the designation would provide for survival and recovery, and the Service should analyze the effects of different areas on designation. The commenter provided two alternatives. One alternative would be to evaluate whether lands designated as critical habitat can be limited to lands that are located outside of existing urban limit lines, and outside of areas that have a general plan/zoning designation for residential, commercial, and industrial purposes. A second alternative would be to limit critical habitat to the Central Coast from San Francisco to Santa Barbara. If the goal is to protect subspecies of frog, why would protection of these populations alone not be sufficient?

Our Response: We believe urbanized areas are not essential to the conservation of the California red-legged frog, and we are removing these lands from the final designation. However, without an in-depth analysis on a case-by-case basis of each general plan or zoning designation, the removal of undeveloped areas with general plans or zoned for development could potentially result in excluding areas to the extent that recovery may be excluded. We strongly believe populations of California red-legged frogs in the units of the Sierra Nevada, eastern side of the Coast Range in northern California, and southern California could be extirpated without special management actions and are essential to protect the full range of genetic variability of the sub-species. Therefore, designation of these areas meets the definition of critical habitat defined in section 3(a)(5) of the Act as being: (1) essential to the conservation of the subspecies, and (2) requiring special management or protection, therefore, warranting designation as critical habitat.

(21a) *Comments:* Some commenters believed that the primary constituent elements may exclude habitat that could prove to be essential to California red-legged frogs.

Our Response: We believe the critical habitat for California red-legged frogs in this final designation will provide for breeding and nonbreeding habitat and for dispersal between these habitats, as well as allowing for expansion of California red-legged frog populations, which is vital to the recovery of the subspecies. Habitats that may be excluded, based on the description of primary constituent elements, are primarily isolated. Isolated habitats cannot recover from extinction. Although isolated habitats may possess a large population of red-legged frogs, these habitats could be subjected to localized events that may result in the extirpation of the subspecies from the area.

(21b) *Comment:* Several commenters requested the Service utilize NWI maps to define the primary constituent elements, and one commenter stated that NWI maps should not be used for this purpose.

Our Response: Although NWI maps are useful to identify general habitat types, they are based on data collected over 20 years ago and, in many cases, do not reflect current conditions. In northern California, the majority of the California red-legged frogs are found in stock ponds. These ponds, although sometimes identified on NWI maps, are often susceptible to sedimentation and/or dam failure and tend to be short-lived. Therefore, the use of NWI maps could result in the identification of suitable breeding habitat that may no longer exist. Use of these maps would also result in not identifying suitable habitat essential to California red-legged frogs because the scale of these maps is inappropriate. They are generalized and cannot be used to specifically identify habitat, especially suitable breeding pools in streams.

(22) *Comment:* One commenter suggested we use sensitivity analyses to provide a rough estimate of the amount of critical habitat within a subset of critical habitat units. The commenter also believed habitat suitability models and a metapopulation viability analysis were needed to evaluate and complete the designation.

Our Response: We believe that the use of sensitivity data would rely on too many assumptions and we feel would inaccurately portray the distribution of California red-legged frog habitat. It would only roughly estimate the distribution of primary constituent elements in a limited number of proposed units. It is likely that suitable habitat would be excluded from the analysis and unsuitable habitats would be included. When attempting to more accurately delineate critical habitat, we examined numerous ways to more specifically refine the proposed designation. These included using data from NWI maps that do not accurately reflect the distribution of frog habitat throughout the landscape, and the use of hydrographic information including RiverReach 3 data from the EPA to identify all suitable aquatic habitat within 2 km (1.25 mi). Because all

digital and hard copy maps are not detailed enough to accurately define suitable breeding habitat within a creek, we had to assume the whole creek was suitable habitat. We defined a 2 km (1.25 mi) buffer around streams identified in the coverage in an effort to identify all aquatic areas. This procedure resulted in identifying the entire proposed unit as critical habitat, which is grossly inaccurate. Given these limitations, we believe sensitivity analysis would rely on too many assumptions and would misrepresent the distribution of California red-legged frog critical habitat.

Habitat suitability models and metapopulation viability analysis would allow us to examine multiple variables across a large geographic range using numerous available data sources. We agree that this would allow us to identify suitable habitat variables for California red-legged frogs. However, results from such analyses are not currently available. Therefore, we are relying on the best information available from surveys, informal and formal consultations, research published in peer reviewed and unpublished information, as well as discussions with scientists conducting research involving California red-legged frogs and other amphibians.

(23) *Comment:* Some commenters suggested creating a GIS layer of all existing populations of California red-legged frogs, all predators known to impact frogs, and all lands covered by adequate protective regulations such as HCPs, Wild and Scenic Rivers, and other species' critical habitat designations, and use these layers to select the areas most likely to maintain existing populations or have the potential to reestablish populations.

Our Response: Unfortunately, there are no current maps showing the distribution of nonnative predators throughout the State. This information would be useful so as to more efficiently direct efforts to those areas where special management will be effective. We also did not propose any critical habitat units within the boundaries of an existing HCP, although we did overlap with certain proposed and final critical habitat boundaries or other designated areas such as Wild and Scenic Rivers, these designations would not provide special management necessary for California red-legged frogs.

(24) *Comment:* Several commenters felt there was not enough evidence to support the statement that grazing adversely affects California red-legged frogs.

Our Response: As stated in the May 23, 1996, final rule to list the subspecies as threatened (61 FR 25813), no site-specific studies have been done that document the decline and disappearance of California red-legged frogs once grazing is introduced into an area. Most evidence on the effects of grazing on the subspecies is circumstantial. However, extensive research has been done on the effects of livestock grazing on the aquatic environment. Grazing has occurred at all historic sites known to support California red-legged frogs in the Central Valley hydrologic basin. Combining this information with information on the habitat preferences of California red-legged frogs supports the conclusion that grazing, where it has dramatically altered red-legged frog habitat, has played a role in the decline of the subspecies. However, we believe that livestock grazing can be managed properly to avoid impacts to California red-legged frogs, and even enhance habitat in some circumstances.

(25) *Comment:* One commenter asked that the minimum mapping units (planning watersheds) be further delineated by county, and stated the maps should delineate each watershed boundary and be labeled.

Our Response: In the preparation of the final determination, we have more detailed GIS coverages that allowed us to reduce our minimum mapping unit from planning watershed to a 100-m UTM grid square. This permitted us to exclude many areas that do not contain the primary constituent elements for the California red-legged frog and refine the critical habitat boundaries. We did not label the watershed boundaries in this final rule because we changed our mapping unit from watershed boundaries to UTM coordinates.

(26) *Comment:* One commenter asked for the acreage of military lands including firing ranges, dedicated impact areas, and associated structures interspersed throughout the upland areas that will be defined as critical habitat. The DOD requested that their lands be excluded from the critical habitat designation because protections and management afforded the California red-legged frog under their Integrated Natural Resource Management Plans (INRMPs), pursuant to the Sikes' Act, were sufficient, and no additional special management or protection would be required. In this case, these areas would not meet the definition of critical habitat.

Our Response: We agree that INRMPs can provide special management for lands such that they no longer meet the definition of critical habitat when the plans meet the following criteria: (1) A current INRMP must be complete and provide conservation benefit to the species; (2) the plan must provide assurances that the conservation management strategies will be implemented; and (3) the conservation management strategies will be effective and provide for periodic monitoring and revisions as necessary. If all of these criteria are met, then the lands covered under the plan would no longer meet the definition of critical habitat.

Vandenberg Air Force Base, which had proposed critical habitat within its boundaries, has completed an INRMP that addresses and provides a conservation benefit for the California red-legged frog. We have determined that the lands within this base no longer meet the definition of critical habitat, and they have been excluded from the final designation of critical habitat for the California red-legged frog. Further discussion of this exclusion can be found in the section of this document entitled ''Exclusions Under Section 3(5)(A).''

Camp San Luis Obispo (CSLO) and Camp Parks Reserve Forces Training Area (Camp Parks) have not yet completed their INRMPs, and both bases contain occupied habitat for the California red-legged frog. The proposed critical habitat encompassed more than 90 percent of both bases.

CSLO and Camp Parks are training facilities managed by the California Army Reserve National Guard (CA ARNG) and the U.S. Army (Army), respectively. Their missions are to provide a major training area for National Guard and U.S. Army Reserve troops for overseas deployment, and to protect public safety during emergency disasters. During the public comment period for the proposal, CSLO and Camp Parks concluded that if these areas are included in the final designation of critical habitat for the California red-legged frog, the CA ARNG and U.S. Army would be compelled by their interpretation of the Act to significantly curtail necessary training within the area designated as critical habitat, to the detriment of mission-critical training capability, until the reinitiation of consultation is concluded. As a result, this would greatly restrict use of the installation, severely limiting CSLO's and Camp Parks utility as training sites.

In contrast, the benefits of designating critical habitat on these two bases now are small. The primary benefit of designation is the prohibition on destruction or adverse modification of critical habitat under section 7 of the Act. However, California red-legged frog habitat on CSLO and Camp Parks is occupied, and we believe that section 7

consultation on any proposed action on these bases that would result in an adverse modification conclusion would also result in a jeopardy conclusion. We conclude that the benefits of excluding Camp San Luis Obispo and Camp Parks exceed the benefits of including the installations in the critical habitat designation. Further, we have determined that excluding the bases will not result in the extinction of the red-legged frog, as numerous frog core areas remain within the final critical habitat designation and sections 7(a)(2) and 9 still apply to the activities affecting red-legged frogs on CSLO and Camp Parks. Further discussion of this exclusion can be found in the section of this document entitled ''Exclusions under Section 4(b)(2).''

Should additional information become available that changes our analysis of the benefits of excluding any of these (or other) areas compared to the benefits of including them in the critical habitat designation, we may revise this final designation accordingly. Similarly, if new information indicates any of these areas should not be included in the critical habitat designation because they no longer meet the definition of critical habitat, we may revise this final critical habitat designation. If, consistent with available funding and program priorities, we elect to revise this designation, we will do so through a subsequent rulemaking.

(27) *Comment:* One commenter felt that once the proposal was finalized, the primary constituent elements found throughout the unit would be overlooked and it will be assumed that the entire unit is inhabited by the frog. Other commenters expressed concerns that California red-legged frogs may wander off critical habitat units onto adjacent lands thus decreasing private property values.

Our Response: The primary constituent elements that define critical habitat for the California red-legged frog are detailed under the ''Primary Constituent Elements'' section above. Each element that defines critical habitat for the red-legged frog must be present in a project area before we will declare it to be critical habitat. Areas within designated critical habitat units that do not contain the primary constituent elements necessary to make them critical habitat, and areas that lie outside critical habitat units, may be occupied by California red-legged frogs. Critical habitat only denotes those areas that are essential to the conservation of the species and that may require special management considerations or protection.

Issue 2: Legal and Procedural Comments

(28) *Comment:* The Service did not conduct a re-analysis of the threatened status of the California red-legged frog during the designation of critical habitat.

Our Response: We are not required by the Act to re-analyze the listing status of the subspecies when designating critical habitat. To re-analyze its status would require a separate rule to reevaluate the threats to the subspecies.

(29) *Comment:* One commenter stated the Service designated far too much habitat as critical to the conservation of the subspecies, which is a violation of the Act. Other commenters felt the Service based habitat criteria and conclusions on unpublished and otherwise unavailable data.

Our Response: Under 50 CFR 424.12(b), ''In determining what areas are critical habitat, the Secretary shall consider those physical and biological features that are essential to the conservation of a given species and that may require special management considerations or protection.'' The final designation of critical habitat is based on the available body of information on the biology and status of this subspecies, as well as the effects of land-use practices on its continued existence. We agree that much remains to be learned about this subspecies. If credible, new information becomes available that contradicts the basis for this designation, we will reevaluate our analysis and, if appropriate and funding is available, propose to modify this critical habitat designation. We have considered the best scientific information available at this time, as required by the Act. All the information that we used in the development of the proposed and this final rule is available for inspection, during normal business hours, at the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

(30) *Comment:* The broad scale of the proposed critical habitat maps are not specific enough to allow for reasonable public comment, therefore, violating the Act and 50 CFR 424.12(c).

Our Response: This final rule contains the required legal descriptions of areas designated as critical habitat. The accompanying maps are for illustration purposes. If additional clarification is necessary, contact the Sacramento Fish and Wildlife Office (see **ADDRESSES** section). We identified specific areas referenced by specific legal description, roads, waterways, and other landmarks, which are found on standard topographic maps.

(31) *Comment:* Several commenters stated that the 30-day comment period violated 50 CFR 424.16(c)(2) and requested that we extend the comment period on the proposed determination and economic analysis to allow for additional outreach to interested parties as well as hold more public hearings. Other commenters recommended that we withdraw the rule and re-propose it when we provided a designation that was more specific, and after the completion of other relevant analyses. Some commenters requested the Service petition the Court to extend the deadline for the publication of the proposed rule.

Response: Following the publication of the proposed critical habitat determination on September 11, 2000, we opened a 30-day comment period which closed on October 11, 2000. On November 19, 2000, we reopened the comment period for an additional 30 days to obtain further comments on the critical habitat designation. We held four public meetings during September 2000, and conducted outreach by notifying affected elected officials, local jurisdictions, interested groups, and property owners. We conducted much of this outreach through legal notices in 15 regional newspapers, telephone calls, letters, and news releases faxed and/or mailed to affected officials, local jurisdictions, and interest groups, and publication of the proposed determination and associated material on our Regional world wide web page. We announced the availability of the draft economic analysis in the **Federal Register** on December 21, 2000, and opened a public comment period from December 21, 2000 to January 22, 2001, to allow for comments on the draft economic analysis and additional comments on the proposed determination itself. During this time, we also held two informational meetings. We provided notification of the draft economic analysis through telephone calls, letters, and new releases faxed and/or mailed to affected elected officials, local jurisdictions, and interest groups. Due to the court-ordered deadline, we are not able to reopen the comment period a fourth time. The direction from the court also did not state withdrawal of the proposal as an option.

(32) *Comment:* Several commenters stated the designation of critical habitat constitutes a major Federal action significantly affecting the quality of the human environment. An environmental impact statement (EIS) should be prepared.

Our *Response:* We have determined that Environmental Assessments (EAs)

and EISs, as defined under the authority of the National Environmental Policy Act of 1969 need not be prepared 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** in October, 1983 (48 FR 49244).

(33) *Comment:* Many landowners, cattle ranchers in particular, expressed concern about how the critical habitat designation would limit their use of their property and were concerned that any activity undertaken on their property would be prohibited or would need a permit.

Our Response: Designation of critical habitat does not prescribe specific management actions, but does identify areas that are in need of special management considerations. In regard to grazing, we do not foresee any change in the ability of private landowners to graze their property. In addition, we anticipate that many activities, including grazing, presently occurring on critical habitat areas can be managed to be compatible with the subspecies' needs. Only those activities occurring in designated critical habitat and requiring a Federal permit, authorization, or funding would require consultation.

(34) *Comment:* Some commenters were concerned this designation would result in additional constraints under the California Environmental Quality Act (CEQA) and by the Coastal Zone Management Program (CZMP).

Our Response: To the extent that the CEQA and CZMP places additional constraints on property owners within designated critical habitat, such constraints would be a direct effect of CEQA and CZMP, and not a direct result of the designation of critical habitat for the California red-legged frog.

(35) *Comment:* Several commenters stated the designation of unoccupied habitat violated the Act.

Our Response: The definition of critical habitat in section 3(5)(A) of the Act includes, ''specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.'' After weighing the best available information, including the subspecies' draft Recovery Plan (Service 2000), we conclude that the areas designated by this final rule that lie outside the geographic area occupied by the subspecies at the time it was listed are essential for the recovery of the subspecies and subsequent removal from the List of Endangered and Threatened species.

(36) *Comment:* Some commenters felt it was inappropriate to close the comment period on the critical habitat proposal prior to the closing of the comment period on the subspecies' draft Recovery Plan, and that comments obtained during the recovery planning process should be considered before final critical habitat designation.

Our Response: Development of the subspecies' draft Recovery Plan, and designation of critical habitat for the California red-legged frog, are two separate processes with two separate timeframes. We recognize that information developed during the recovery planning process is directly relevant to the development of the critical habitat designation, and we relied heavily upon it. The closing date of the comment period for the draft Recovery Plan (November 8, 2000) was established long before the court-ordered timeframe for designation of critical habitat. Nevertheless, potential changes to the California red-legged frog draft Recovery Plan resulting from public comments received during the draft Recovery Plan comment period were also considered in this final rule.

(37) *Comment:* Several commenters felt the proposed rule will have significant takings implications which the Service must address.

Our Response: As stated below under the ''Takings'' section, we believe that, in accordance with Executive Order 12630, the rule does not have significant takings implications. Therefore, a takings implication assessment is not required. The designation of critical habitat affects only Federal agency actions. The rule will not increase or decrease the current restrictions on private property concerning take of the California red-legged frog. Due to current public knowledge of the subspecies' protection, the prohibition against take of the subspecies, both within and outside of the designated areas, and the fact that critical habitat provides no incremental additional restrictions, we do not anticipate that property values will be affected by the critical habitat designation.

(38) *Comment:* Several commenters felt the proposed rule was based on the standard of recovery and not based on habitats that are essential to the conservation of the subspecies. Another commenter stated the proposed rule uses key terms such as survival, recovery, and essential, but does not objectively define these terms in a manner that is specific to California red-legged frogs.

Our Response: The term ''conservation'', as defined in section 3(3) of the Act, means ''to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary'' (*i.e.,* the species is recovered and removed from the list of endangered and threatened species). The Draft Recovery Plan for the California red-legged frog provides a description of habitat attributes that are essential to the survival and recovery of the subspecies (Service 2000). These terms are thoroughly described in the draft Recovery Plan under section II ''Recovery,'' which is incorporated by reference.

(39) *Comment:* A number of commenters identified specific areas that they thought should not be designated as critical habitat.

Our Response: Where site-specific documentation was submitted to us providing a rationale as to why an area should not be designated critical habitat, we evaluated that information in accordance with the definition of critical habitat pursuant to section 3 of the Act and made a determination as to whether modifications to the proposal were appropriate. We excluded lands from the final designation that we determined to be nonessential to the conservation of the California red-legged frog.

(40) *Comment:* In response to the Service's request that the public comment on critical habitat designation relative to future HCPs, several commenters stated that critical habitat should be retained within the boundaries of approved HCPs. They felt that HCPs cannot be viewed as a functional substitute for critical habitat designation. They also stated that HCPs are a mechanism for non-Federal landowners to obtain an incidental take permit that may be incompatible with the destruction or adverse modification of critical habitat. One commenter recommended that critical habitat remain within existing and future HCPs but suggested that actions covered under an HCP should be exempt from additional review for critical habitat if the subspecies is covered in the HCP.

Our Response: Critical habitat does not provide for a higher standard of conservation and protection than HCPs or section 7 consultations. See our response to the following comment for a discussion of conservation measures afforded covered species under HCPs. Also, see our discussion of the relationship of consultations conducted under section 7 relative to critical habitat in the section in this document entitled ''Section 7 Consultation''.

(41) *Comment:* Fifteen commenters supported the approach that critical habitat be removed entirely from the

boundaries of HCPs automatically upon the issuance of an incidental take permit. Many of these same commenters recommended that areas protected by existing HCPs also be removed from the critical habitat boundary. They supported their recommendations by asserting that landowners will be reluctant to participate in HCPs unless they have incentives including the removal of critical habitat from HCP boundaries, or because they will fear a third-party lawsuit.

Our Response: We recognize that critical habitat is only one of many conservation tools for federally listed species. HCPs are one of the most important tools for reconciling land use with the conservation of listed species on non-Federal lands. Section 4(b)(2) of the Act allows us to exclude from critical habitat designation areas where the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We believe that in most instances the benefits of excluding HCPs from critical habitat designations will outweigh the benefits of including them. For this designation, we find that the benefits of exclusion would outweigh the benefits of designation for all legally operative HCPs issued for the California red-legged frog.

We anticipate that future HCPs in the range of the California red-legged frog will include it as a covered species and provide for its long-term conservation. We expect that HCPs undertaken by local jurisdictions (*e.g.,* counties, cities) and other parties will identify, protect, and provide appropriate management for those specific lands within the boundaries of the plans that are essential for the long-term conservation of the species. Section 10(a)(1)(B) of the Act states that HCPs must meet issuance criteria, including minimizing and mitigating any take of the listed species covered by the permit to the maximum extent practicable, and that the taking must not appreciably reduce the likelihood of the survival and recovery of the species in the wild. We fully expect that our future analyses of HCPs and section 10(a)(1)(B) permits under section 7 will show that covered activities carried out in accordance with the provisions of the HCPs and section 10(a)(1)(B) permits will not result in the destruction or adverse modification of critical habitat designated for the California red-legged frog.

In the event that future HCPs covering the California red-legged frog are developed within the boundaries of designated critical habitat, we will work with applicants to ensure that the HCPs provide for protection and management of habitat areas essential for the conservation of the frog by either directing development and habitat modification to nonessential areas or appropriately modifying activities within essential habitat areas so that such activities will not adversely modify the primary constituent elements. The HCP development process provides an opportunity for more intensive data collection and analysis regarding the use of particular habitat areas by the frog. The process also enables us to conduct detailed evaluations of the importance of such lands to the long-term survival of the subspecies in the context of constructing a biologically configured system of interlinked habitat blocks. We will provide technical assistance and work closely with applicants throughout the development of future HCPs to identify lands essential for the long-term conservation of the California red-legged frog and appropriate management for those lands. By definition, if the California red-legged frog is a covered species under future HCPs, the plans should provide for the long-term conservation of the species. The take minimization and mitigation measures provided under these HCPs are expected to adequately protect the essential habitat lands designated as critical habitat in this rule, such that the value of these lands for the survival and recovery of the frog is not appreciably diminished through direct or indirect alterations. If an HCP that addresses the California red-legged frog as a covered species is ultimately approved, we will reassess the critical habitat boundaries in light of the HCP. We will seek to undertake this review when the HCP is approved, but funding constraints may influence the timing of such a review. However, an HCP can proceed without a concurrent amendment to the critical habitat designation should all parties agree.

The designation of critical habitat should not deter participation in the NCCP or HCP processes. Approvals issued under these processes include assurances of no additional mitigation through the HCP No Surprises regulation (63 FR 8859). The development of new HCPs or NCCPs should not be affected by designation of critical habitat primarily because the Service views the standards of jeopardy for listed species and of adverse modification for critical habitat as being virtually identical. We discuss these standards in detail in the section in this document entitled ''Section 7 Consultation''.

(42) *Comment:* One commenter recommended that critical habitat be excluded from proposed HCPs for a period of time sufficient to finalize the HCP. If the HCP is not completed within the timeframe agreed upon, this commenter recommended that the Service place the land back into designated critical habitat to avoid potential lawsuits.

Our Response: We have considered several different approaches regarding the issuance of HCPs within the critical habitat boundary. If consistent with available funding and program priorities, we may elect to revise this designation to reflect future HCPs, which would require a subsequent rulemaking.

(43) *Comment:* Several commenters felt the number of, and extent of, potential Federal nexuses was understated within the proposed rule and failed to identify common potential nexuses.

Our Response: A number of activities may trigger a Federal nexus including, but not limited to, those listed in Table 2 below. A Federal nexus is invoked when a Federal agency is funding, permitting, or in some way authorizing, a project. If a project has not, to date, received Federal funding, or a Federal permit or authorization, but will in the future, and the project might destroy or adversely modify critical habitat, we would require a section 7 consultation. In addition, for projects that have been federally funded, permitted, or authorized but have not been fully constructed, we would also require a section 7 consultation if the project may destroy or adversely modify critical habitat.

Issue 3: Site-Specific Areas and Other Comments:

(44) *Comment:* Some commenters questioned how the listing rule and draft Recovery Plan identified California red-legged frogs from 23 counties and a reduction of 70 percent of its range, and the proposed critical habitat rule identified 31 counties and still determined the reduction was 70 percent.

Our Response: This was an error. California red-legged frogs are known from 26 counties (including a recent discovery of the subspecies in Yuba County, a rediscovery of the subspecies in Tehama County, and a previously unreported sighting in Napa County). However, all three of these populations are quite small, and unless we find additional populations in these areas, our estimate that the frog has been extirpated from 70 percent of its range is still valid.

(45) *Comment*: Several commenters requested additional areas be designated as critical habitat. These include watersheds within the Sierra Nevada including: The French Creek Watershed in Unit 1; Little Oregon Creek located immediately south of Unit 2; the Traverse Creek watershed in El Dorado County; the Interface area in Calaveras County; lands within Auburn Recreation Area in Placer County; several Merced River watersheds; the middle fork and south fork of the Tuolumne River watersheds; and the upper Mokelumne River. Other commenters requested the addition of watersheds within the Bay Area of northern California including: Briones, Las Trampas, and Tilden Regional Park watersheds; watersheds managed by EBMUD; watersheds located around Orinda and Moraga; the Alhambra Creek watersheds; upper Stevens Creek watershed; and the Lagoon Valley watershed in Vacaville. Other commenters requested additional areas in the central Coastal region including: Mt. Madonna State Park, coastal watersheds from the boundary of Unit 14 south to the Wilder Creek watershed; watersheds within the Santa Cruz Mountains, watersheds currently managed by local open space districts in Santa Clara, Santa Cruz, and San Mateo counties, watersheds adjacent to and including the town of Pacifica; watersheds to the east of Unit 21; the Pescadero Creek, East Stillwater, and Indian Village watersheds in Pebble Beach; the Spanish Lake Wetlands in San Luis Obispo County, and Casmalia Creek and Oso Flaco watersheds. Other commenters requested additional areas be included in the Santa Barbara and Ventura counties including: South coastal watersheds in Santa Barbara County, and all major watersheds adjacent to Unit 29 from Rustic Canyon to Trancas Creek. Several commenters also asked why we did not designate any lands within the Central Valley.

Our Response: We did not include all of the specific lands listed above in the proposal because, at the time of proposal, we concluded these lands were not essential for the conservation of California red-legged frogs, or met the definition of critical habitat. After reassessing the requested additional lands (and lands requested for exclusion) in the Sierra Nevada, with the exception of the Little Oregon Creek watershed, we continue to believe these lands are not essential for the conservation of the California red-legged frog. We have not included the Little Oregon Creek watershed within Unit 2 because we believe it is inappropriate to designate additional lands that had not been disclosed or commented upon during the rulemaking process even though we believe this population is essential. After reassessing the requests for the other areas, we do not believe they are essential for the conservation of the California red-legged frog. Many of these areas are isolated, as in the Bay Area. Within the central coast region of California, most of these areas are immediately adjacent to designated critical habitat. Within Ventura and Santa Barbara, many of these areas lack sufficient information to determine if they are essential, and we did not include areas within the Central Valley because these areas were not identified as essential in the Recovery Plan.

(46) *Comment*: A number of commenters identified specific areas that they thought should not be designated as critical habitat.

Our Response: Where site-specific information was submitted to us providing a rationale as to why an area should not be designated critical habitat, we evaluated that information in accordance with the definition of critical habitat pursuant to section 3 of the Act, and made a determination as to whether modifications to the proposal were appropriate. We excluded lands from the final designation that we determined to be nonessential to the conservation of California red-legged frogs. We included lands in the final designation that we still considered essential using the revised mapping scale of 100-m UTM grid and did not have special management sufficient for the conservation of California red-legged frogs.

Issue 4: Economic Comments

(47) *Comment*: Some commenters expressed concern that the publication of the proposed rule to designate critical habitat before an economic analysis was completed deprived the Secretary of information necessary to understand the true costs of designating critical habitat. Other commenters stated that critical habitat should not have been proposed before an economic and other analysis was completed, and the opportunity to comment on the economic analysis and the proposed rule was limited. Some commenters felt the incremental extension process prevented interested parties from developing a workable comprehensive review of the plan.

Our Response: Pursuant to 50 CFR 424.19, we are not required to conduct an economic analysis at the time critical habitat is initially proposed. We published the proposed determination in the **Federal Register** (65 FR 54892), invited public comment, and held four hearings. We used comments received on the proposed critical habitat to develop the draft economic analysis. We invited public comments for 30 days on the draft economic analysis and proposed determination, and also held two informational meetings to further clarify the economic analysis and the proposed rule. We were unable to allow a longer comment period given the short timeframe ordered by the court.

(48) *Comment*: Critical habitat designation is so broad that some landowners will be forced to survey for red-legged frogs under Federal and State environmental laws when undertaking a project, even though some sites within designated critical habitat do not contain red-legged frogs, or the primary constituent elements required by the subspecies to occupy an area. The critical habitat proposal improperly places the onus on private landowners to refute the designation that their property possesses the primary constituent elements and is, therefore, in violation of the Act.

Our Response: We do not believe that the designation of critical habitat results in additional survey requirements. Ideally, we would prefer to map critical habitat more precisely, and this final designation is more precisely mapped than the proposal. To the extent allowed through the application of our minimum mapping unit, we excluded lands not essential to the conservation of the California red-legged frog from the critical habitat designation. However, we were not able to exclude all nonessential lands such as roads, buildings, and similar structures unlikely to contain primary constituent elements and thereby contribute to the conservation of the red-legged frog. Existing features and structures within the boundaries of the mapped units, such as buildings, roads, railroads, other paved areas, lawns, and other urban landscaped areas will not contain all the primary constituent elements. Federal actions limited to those areas, therefore, would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

(49) *Comment:* Several commenters stated that the economic analysis failed to make site-by-site cost-benefit comparisons and as a result failed to provide information in sufficient detail to allow the Secretary to consider whether the benefits of excluding particular areas outweigh the benefits of including such areas when making a final determination on critical habitat designation.

Our Response: We believe that the draft economic analysis made a

reasonable attempt to identify all current and future planned activities within proposed critical habitat. Our draft analysis assessed potential economic impacts from critical habitat designation by first identifying current and future land uses within the proposed critical habitat. Our analysis then considered whether these activities were likely to involve a Federal nexus and, if so, the likelihood that Service biologists would want to consult on the activity over concern for the activity's impact on the red-legged frog or its critical habitat. For activities identified by Service biologists as likely to cause a concern, we attempted to differentiate between consultations that would take place because such activities could jeopardize the continued existence of a listed species versus those that would likely take place solely because of critical habitat designation.

Although we attempted to characterize these effects by proposed critical habitat unit, we were unable to estimate with any precision the number of likely incremental consultations by unit due to the numerous uncertainties that affect generating reliable estimates for specific areas. It is very difficult to estimate whether a potential future activity would require a consultation, let alone determine the degree to which critical habitat designation influences that outcome. Given these limitations, we were only able to develop a general estimate of the number of future consultations that potentially could result from the designation of the proposed rule. We believe that this estimate, along with the characterization of activities by unit, should provide the Secretary with enough information to make an informed decision concerning the designation of the final rule.

(50) *Comment:* Some commenters questioned our approach to consider the incremental effects of the proposed rulemaking and stated that we should have also considered the effects of listing the red-legged frog in our analysis.

Our Response: While listing effects can be significant in some cases due to the prohibition on ''taking'' a listed species, Congress specifically directed the Service to base its listing decisions strictly on biological considerations. Consequently, economic analyses are only conducted for the designation of critical habitat. When conducting economic analyses on critical habitat rulemakings, our analyses are conducted to consider the incremental effect of the action. As a result, listing effects, along with other types of effects that would occur regardless of critical habitat designation, constitute the baseline of our critical habitat analyses. This approach, which is consistent with economic theory, has been ratified through guidelines published by the Office of Management and Budget (Economic Analysis of Federal Regulations Under Executive Order 12866, Office of Management and Budget, January 11, 1996).

(51) *Comment:* An economic study that was commissioned by some commenters was submitted claiming that our draft economic analysis significantly underestimated the potential costs of critical habitat designation. The study provided by the commenter claims that economic losses are actually in excess of $100 million per year and are borne by many groups not considered in our draft analysis.

Our Response: The results of the economic analysis conducted by Dr. David Sunding and Dr. David Zilberman of the University of California at Berkeley, we believe, dramatically overstate the potential impacts proposed red-legged frog critical habitat designation could have on Northern Californian real estate developers. In short, we believe their analysis overstates impacts because it fails to recognize the fact that the red-legged frogs occupy much of the habitat that was proposed in Alameda and Contra Costa counties and that many of the impacts mentioned in their analysis would occur regardless of critical habitat designation.

The analysis faults us on several fronts including underestimating the net number of homes in an area that would not be built as a result of critical habitat designation, the cost incurred by developers when involved in a section 7 consultation, and attributing all changes to a proposed development to critical habitat designation, while ignoring the other factors that frequently lead to delay.

While real estate developers may suffer delays in project activities and changes in project scope, attributing such impacts to critical habitat designation is difficult at best. To begin, until recently, critical habitat has not been designated in many of the areas of concern to real estate developers. While some projects may be delayed out of concern for a project's impact on federally protected species, large real estate projects are often delayed for numerous other reasons that include compliance with various State and local ordinances and zoning regulations. It would be improper to attribute all such changes in the scope of a development project to critical habitat when numerous other factors frequently contribute to delay. Furthermore, most developers who have consulted with us over the scope of their projects have done so because of the impacts their projects would have on federally protected endangered species not because of critical habitat designation. Consequently, care must be exercised when forecasting future impacts based on impacts attributable to another part of the Act that would remain unaffected by critical habitat designation.

We have also found little evidence to date to support claims by some developers that critical habitat designation would have significant regional economic impacts. In areas where critical habitat has been designated, economic growth has continued to grow. For example, a study was released by the Coalition for Sonoran Desert Protection that examined the impact of designating habitat for the cactus ferruginous pygmy-owl in southern Arizona (McKenney 2000). Performed one year after the designation, the study found that dire predictions made by developers in that region have not materialized. Specifically, high-density housing development has not slowed, the value of vacant land has risen, land sales have continued, and the construction sector has continued its steady growth.

Similarly, in a study conducted by Oliver Houch, the author reviewed over 71,560 informal and 2,000 formal consultations that were conducted under the Act and found that only 18 projects, or 0.02 percent of the projects we consulted on, were ultimately terminated (Houck 1993, p. 318). Furthermore, of the 99 jeopardy opinions issued by the Service that were reviewed by the author, he found that we issued ''reasonable and prudent alternatives'' in nearly all of these opinions, which allowed the projects to proceed (Houck 1993, p. 319). Houck found that ''(T)he few opinions that did not identify such alternatives involved small-scale, private development directly in habitat essential to the species (although not always designated as critical). No major public activity, nor any major federally-permitted private activity was blocked'' (Houck 1993, p. 320). Houck also reported that a common theme in all the jeopardy opinions that he reviewed was our determination to find an alternative within the economic means, authority, and ability of the applicant that would allow the project to proceed (Houck 1993, p. 320).

We believe that had Dr. Sunding and Dr. Zilberman been able to verify the reasonableness of their assertion that critical habitat would result in the net

loss of regional housing, they would have found little evidence to substantiate such claims and would have therefore reached conclusions similar to those presented in our draft analysis.

(52) *Comment:* Some commenters stated that we should have estimated the cumulative effect of the critical habitat designation for the frog along with the effect of future pending and proposed critical habitat for other species in the area.

Our Response: We do not believe that we are required to estimate the cumulative effect of critical habitat designations as part of our rulemaking procedures. We are required to consider only the effect of the proposed government action, which in this case is the designation of critical habitat for the frog. Again, the appropriate baseline to use in an analysis of a Federal action, which in this case is the designation of critical habitat for the frog, is the way the world would look absent the proposed regulation. Against this baseline, we attempt to identify and measure the incremental costs and benefits associated with the government action. Because the frog is already a federally protected species, any effect this listing has on the regulated community is considered part of the baseline scenario, which remains unaffected by our critical habitat designation. Future pending and proposed critical habitat designation for other species in the area will be part of separate rulemakings and, consequently, their economic effects will be considered separately.

(53) *Comment:* Some commenters stated we should have analyzed impacts over a 25-year time span rather than the 10-year horizon used in the draft analysis because the draft Recovery Plan for the red-legged frog is based on a 25-year recovery period.

Our Response: We limited our analysis to a 10-year horizon because the estimation of future impacts becomes extremely speculative beyond that point. As stated in the draft analysis, our approach for estimating the potential effects of critical habitat designation followed four basic steps. First, we developed a comprehensive list of possible Federal nexuses on Federal, State, county, municipal, and private lands in and around the proposed critical habitat areas. Second, we reviewed historical patterns and current information describing the section 7 consultations in the proposed critical habitat areas to evaluate the likelihood that nexuses would result in consultations with the Service. Third, we determined whether specific projects and activities within the proposed critical habitat involve a Federal nexus and would likely result in section 7 consultations. Finally, we evaluated whether section 7 consultations with the Service would likely result in any modifications to projects, activities, or land uses. While we believe we did a credible job in identifying both current and planned future land use activities within proposed critical habitat, we also believe that to speculate about long-term, future activities on particular units, which are different than those currently being conducted or envisioned, adds little information of value to the decision-making process. For example, some areas of proposed critical habitat include private property that is currently being used for ranching purposes. These areas are located far enough away from urban corridors and in some cases have such steep slopes that it is difficult to credibly predict alternative uses for such specific areas beyond 10-years given current population growth patterns and technological developments. Our analysis showed that we believe the annual effects throughout the State will be less than 5 million dollars under the proposed rule.

(54) *Comment:* One commenter questioned why the draft analysis attributed some effects to the draft Recovery Plan and not to critical habitat.

Our Response: The draft economic analysis carefully attempted to identify and measure only those effects that may occur as a result of critical habitat designation. In some areas, land-use activities are already being consulted on or likely to be consulted on due to the presence of species listed under the Act. These consultations would occur regardless of critical habitat designation for the red-legged frog. However, our economic analysis discusses these consultations, in an attempt to clarify to the public why we believe the effects are not attributable to critical habitat. We note that our method for considering only the incremental effects of critical habitat designation is consistent with economic theory and the standards published by the Office of Management and Budget for preparing economic analyses under Executive Order 12866.

(55) *Comment:* One commenter believed that it was impossible to actually estimate the economic impacts attributable to the proposed critical habitat designation until the Service actually identifies reasonable and prudent alternatives and measures.

Our Response: As previously stated, the Act requires the Federal Government to consider whether effects of its actions could jeopardize a listed species or adversely modify critical habitat. After consulting with us and determining that a project, as proposed, could either jeopardize a species or adversely modify critical habitat, we are required to identify reasonable and prudent alternatives to the proposed project. By definition, these alternatives must be economically and technologically feasible. Because numerous different activities are occurring or likely to occur in proposed critical habitat and because we have not yet determined that any of the proposed projects that we have consulted on could jeopardize the red-legged frog, it is difficult to determine what types of reasonable and prudent alternatives would be issued if we determined in the future that some activity could result in adverse modification.

Consequently, after considering many of the different types of activities occurring in proposed critical habitat and those that potentially could result in adverse modification, we made a conservative assumption that in the case of real estate development within some of the areas proposed for critical habitat, reasonable and prudent alternatives could impact up to 2.5 percent of a project's original scope. This assumption is meant to reflect the impact critical habitat designation could have in some areas on real estate development above and beyond those impacts resulting from a project's impact on jeopardizing a species and was based in part on previous reasonable and prudent measures that we have issued to reduce red-legged frog takings on real estate development projects.

(56) *Comment:* One commenter stated that the analysis failed to adequately consider costs of future third-party lawsuits.

Our Response: Our analyses did not address the potential effects of third-party lawsuits directly due to the limited information and experience that critical habitat designation could have on such a lawsuit. However, we recognize that it is possible that some third parties may elect to sue us over future decisions we may make about whether an activity adversely modifies critical habitat. As of yet, we have not faced any such lawsuits and because we are only designating occupied private property as critical habitat for the red-legged frog, we find it highly unlikely that we would ever determine that a Federal action could adversely modify critical habitat without simultaneously jeopardizing the continued existence of the frogs due to the similarity between the two definitions.

(57) *Comment:* One commenter stated that our economic analysis ignored the cumulative impact of multiple designations.

Our Response: We do not believe that we are required to estimate the cumulative effect of critical habitat designations as part of our rulemaking procedures. We are required to consider only the effect of the proposed government action, which in this case is the designation of critical habitat for the frog. Again, the appropriate baseline to use in an analysis of a Federal action, which in this case is the designation of critical habitat for the frog, is the way the world would look absent the proposed regulation. Against this baseline, we attempt to identify and measure the incremental costs and benefits associated with the government action. Because the frog is already a federally protected species, any effect this listing has on the regulated community is considered part of the baseline scenario, which remains unaffected by our critical habitat designation. Future pending and proposed critical habitat designation for other species in the area will be part of separate rulemakings and, consequently, their economic effects will be considered at the time they are proposed.

(58) *Comment*: Several commenters faulted our draft economic analysis for failing to consult with affected industries or local governments likely to be affected by the proposal.

Our Response: We do not believe that it is necessary to contact every potential stakeholder in order for us to develop a draft economic analysis. We believe that we were adequately able to understand the issues of concern to the local community based on public comments submitted on the proposed rule, on transcripts from public hearings, and from detailed discussions with Federal Government representatives. In collecting data, we also contacted some representatives from State and local government agencies. When the draft economic analysis was completed, we notified the public of its availability in the **Federal Register** and local newspapers, held several public meetings, and requested public comment. In particular, we requested comments on the adequacy of the economic analysis.

In regard to future or renewed consultations, the Act and its implementing regulations only requires Federal agencies to consult with us on activities that they fund, authorize, or carry out that may adversely modify red-legged frog critical habitat (in addition to the current requirement that they consult with us on Federal activities that may jeopardize the frog). As a result, only Federal agency representatives are in a position to characterize whether or not any additional or re-initiated section 7 consultations might occur as a result of red-legged frog critical habitat designation and to speculate on the activities, time commitments, and outcomes that such section 7 consultations would entail. We note that private parties are also required to consult with us whenever an activity they propose to carry out may take a listed species, which includes activities that harm or harass red-legged frogs and their habitat. These consultations, however, which are conducted under section 10 of the Act, are being conducted and will continue to occur due to the Act's takings prohibition, which remains unaffected by critical habitat designation.

(59) *Comment*: Some commenters believe that the findings in the draft economic analysis concerning potential associated real estate development costs are significant enough to warrant a withdrawal of these units.

Our Response: In preparing the economic analysis, we made an honest attempt to estimate the potential effects from critical habitat designation resulting from section 7 consultations that could be attributable to the designation. As previously stated, we believe that many of the effects perceived by the public to be attributable to critical habitat would actually occur regardless of critical habitat designation because the red-legged frog is a federally protected species. Because we are attempting to estimate potential future effects from critical habitat designation, our estimates are based on potential future activities that are typical for the areas proposed for designation. In reality, the costs associated with section 7 consultations can vary widely depending on the activity, scope, and areas actually affected. On the whole, however, we believe that we have reasonably estimated the potential future impacts of critical habitat designation for the red-legged frog.

(60) *Comment*: Several commenters questioned why the draft economic analysis failed to provide an estimate of costs associated with potential reductions in property values.

Our Response: Our economic analysis acknowledged that critical habitat designation may, in some instances, have short-term effects on private property values. However, as we stated in the analysis, we did not attempt to quantify such effects due to their highly speculative nature, lack of real observable data, and propensity to likely have offsetting effects. Since we conducted the draft economic analysis, a study was released by the Coalition for Sonoran Desert Protection that examined the impact of designating habitat for the cactus ferruginous pygmy-owl in southern Arizona. Performed one year after the designation, the study found that dire predictions made by developers in that region have not materialized. Specifically, high-density housing development has not slowed, the value of vacant land has risen, land sales have continued, and the construction sector has continued its steady growth. We similarly believe that critical habitat designation for the red-legged frog will not likely exert any real, long-term significant influence on real estate development and existing land values within the critical habitat areas.

(61) *Comment*: One commenter stated that our draft analysis failed to adequately consider the effect critical habitat designation could have on affordable housing and the resulting disproportional effects that would result to the poor and minorities.

Our Response: We disagree that critical habitat designation will have any significant effect on the number and type of newly built housing units in a region, either affordable or unaffordable. Again, we point to the fact that the vast majority of private lands being designated for red-legged frog critical habitat are in areas already occupied by the frog. In these areas, development activities having a Federal nexus would be affected by a section 7 consultation regardless of critical habitat designation. In such instances, critical habitat adds very little to the consultation process. We also note the scarcity of evidence supporting the commenter's claims that critical habitat designation will have a significant effect on future real estate development activities in an area. We remind the commenters of the studies cited elsewhere in this response supporting our position that critical habitat designation has had very little effect on local economies.

(62) *Comment*: One commenter stated that the analysis for the proposed rule ignores local planning issues and violates Federalism rules.

Our Response: Executive Order 13132 requires Federal agencies to consult with affected State and local governments if they promulgate regulations with Federalism implications that either: (1) Impose substantial direct compliance costs on State and local governments not required by statute and do not provide

funds to cover these costs, or preempt State or local laws. We believe that this rulemaking does not have significant Federalism effects, and, as a result, a Federalism assessment is not required. This belief is based on the fact that only the Federal Government is required to consider the effect of its actions on designated critical habitat and consult with us over those actions that could adversely modify critical habitat. Critical habitat designation does not impose any additional requirements on State and local governments.

(63) *Comment*: Several commenters believed that we understated the actual contributions of the agricultural industry to local economies and that we understated the effect critical habitat designation would have on this industry.

Our Response: The draft economic analysis discusses the likely effects that proposed critical habitat designation will have on agricultural-related activities. The analysis found that based on the relative scarcity of section 7 consultations conducted to date concerning agricultural impacts on the California red-legged frog, it is not likely that the designation of critical habitat would add any incremental effects. Specifically, the analysis noted that we have not generally consulted on agricultural-related activities because of the relatively minor impacts such activities have had on the frog and its related environment.

(64) *Comment*: One commenter stated that the draft economic analysis failed to adequately consider the effect the proposed rule could have on small businesses.

Our Response: We disagree. The draft economic analysis did discuss the potential impact the proposed rule could have on small businesses. Specifically, the analysis discussed how the proposal would not impose any significant additional impacts to those currently in existence for occupied areas of critical habitat. While we did acknowledge that critical habitat designation could have some slight effects on certain industries such as real estate development, mining, ranching, and timber harvesting, the biggest effects to these industries result from the impact their activities have, and will continue to have, on the frog, which is afforded protection due to its status as a Federally protected threatened species. As a result, private sector entities will still be required to consult with us whenever their actions could result in a ''taking'' of the frog. Because we are only designating private lands that are currently occupied by the frog, we do not expect any significant increase in consultations or related project delay or mitigation costs to be attributable to the designation of critical habitat. Consequently, we are certifying that this rule will not impose any significant impacts on a substantial number of small entities.

Summary of Changes From the Proposed Rule

Based on a review of public comments received on the proposed determination of critical habitat for California red-legged frogs, we reevaluated our proposed designation of critical habitat. This resulted in several significant changes that are reflected in this final determination. These are: (1) A reduction in the minimum mapping unit for defining critical habitat boundaries, (2) the modification and clarification of the primary constituent elements, (3) the exclusion, under section 4(b)(2) of some lands where new information revealed they were unessential, and the exclusion of Vandenberg Air Force Base, Camp San Luis Obispo Army National Guard, and Camp Parks Army Reserve Forces Training Area, and (4) the removal of proposed critical habitat from Unit 2 in Yuba, Sierra, Butte, and Plumas counties and Unit 4 in Calaveras County.

Based on public comment and the availability of more current and precise GIS data, we refined the minimum mapping unit for the designation from planning watersheds (1,200–1,600 ha (3,000–4,000 ac) average size) to a 100-m UTM grid that approximates the boundaries of land essential to California red-legged frog conservation delineated from digital aerial photography. We then overlaid the proposed critical habitat boundaries on the newer imagery information and removed lands that were not essential to the conservation of California red-legged frogs. This resulted in the removal of significant urban or developed areas. In addition, during this effort to refine the critical habitat boundaries, we discovered the removal of some urbanized areas resulted in the isolation of some proposed critical habitat areas. These small isolated patches were also removed.

Based on public comments regarding the precision and scientific basis for identifying the primary constituent elements, we modified the primary constituent elements to incorporate those relevant comments. Specifically, we modified the upland and dispersal components of the primary constituent elements of suitable upland habitat to consist of all areas within 90 m (300 ft) of the boundary of ordinary highwater of suitable aquatic habitat. We also modified the definition of suitable dispersal habitat. Suitable dispersal habitat will consist of aquatic and upland areas connecting suitable breeding locations and other aquatic habitat. Dispersal must be free of barriers and at least 90 m (300 ft) in width. We also modified the minimum depth of breeding habitat, based on comments from individuals and peer reviewers. Therefore, breeding habitat must now be deeper than 0.5 m (20 in.).

Based on comments received, we excluded those areas where new information revealed that lands were not essential, including lands in the lower Sisquoc River below La Brea Creek in Santa Barbara County, the lands adjacent to the Santa Clarita River in Unit 28, reservoirs over 20 ha (50 ac) in size, areas above 1,500 m (5,000 ft), and, in unoccupied areas, all lands not managed by Federal agencies are excluded from this designation. Also, we excluded those lands of the Santa Ynez Band of the Chumash Mission Indian Reservation upon a determination that the small parcel is not essential to the conservation of the species.

During the comment period for the proposed determination of critical habitat for the California red-legged frog, we received and subsequently evaluated a final INRMP for Vandenberg Air Force Base found in Units 23, 24, and 26. This plan addresses the California red-legged frog as a covered species and provides conservation measures for the species. Based on this plan and Vandenberg's section 7 consultation history, we have determined that the conservation measures afforded the subspecies are sufficient to assure its conservation on the base. Therefore, we have excluded Vandenberg Air Force Base from the final determination of critical habitat for the red-legged frog resulting in a reduction of approximately 38,445 ha (95,000 ac) from these units. A more detailed discussion of the criteria and reasons for this exclusion can be found in the Summary of Comments and Recommendations section.

We also received and evaluated a request from Camp Parks Reserve Forces Training Area found in Unit 15 and Camp San Luis Obispo found in Unit 21, for exclusion from final designation because of the impact a final designation would have on their training-critical mission. The proposed designation included about 90 percent of both installations. After evaluation of the benefits of inclusion and the benefits of exclusion, we have excluded Camp Parks resulting in a reduction of approximately 857 ha (2,118 ac) in Unit

15 and CSLO resulting in a reduction of approximately 2,272 ha (5,613 ac) in Unit 21 from this final designation.

In Unit 2, an unoccupied unit in Yuba, Sierra, Butte, and Plumas counties and in Unit 4, an unoccupied unit in Calaveras County, we discovered that Federal ownership was ''checkerboarded'', that is, interspersed with other landowners. There were no large continuous blocks of Federal land. Given the discontinuous distribution of Federal land, special management actions would not be meaningful. Therefore, we chose to delete these units resulting in a reduction of 27,410 ha (67,750 ac). However, Federal biologists found California red-legged frogs in the Little Oregon Creek watershed on the Plumas National Forest in Yuba County 4 days after the release of the proposed critical habitat designation. This new population was discovered approximately 3 miles south of the southern boundary of Unit 2. This new discovery represents only one of three known populations within the Sierra Nevada. We believe this population is essential to the survival and recovery of California red-legged frogs, however, we believe it is inappropriate to designate additional lands that had not been disclosed or commented upon during the rulemaking process.

The overall refinement of critical habitat boundaries due to the revised mapping scale, exclusion of significant urban areas, exclusion of Vandenberg Air Force Base, Camp San Luis Obispo Army National Guard, and Camp Parks Army Reserve Forces Training Area, and the removal of proposed critical habitat from Units 2 and 4 has resulted in a reduction of approximately 488,580 ha (1,206,330 ac).

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 from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species.

Economic effects caused by listing the California red-legged frog as a threatened subspecies, and by other statutes, are the baseline against which the effects of critical habitat designation are evaluated. The economic analysis must then examine the incremental economic and conservation effects and benefit of the critical habitat designation. Economic effects are measured as changes in national income, regional jobs, and household income. An analysis of the economic effects of the proposed California red-legged frog critical habitat designation was prepared (Industrial Economics, Incorporated, 2000) and made available for public review (December 21 to February 2, 2000; 65 FR 80409). The final analysis, which reviewed and incorporated public comments, concluded that no significant economic impacts are expected from critical habitat designation above and beyond that already imposed by listing the California red-legged frog. The most likely economic effects of critical habitat designation are on activities funded, authorized, or carried out by a Federal agency. The analysis examined the effects of the proposed designation on: (1) Re-initiation of section 7 consultations, (2) length of time in which section 7 consultations are completed, and (3) new consultations resulting from the determination. Because areas proposed for critical habitats are within and outside the geographic range occupied by the California red-legged frog, we examined activities that may be affected by the critical habitat determination within these unoccupied areas. Identified impacts attributed solely to the designation of critical habitat included consultations with Federal agencies in the unoccupied units resulting in minor modifications associated with grazing allotments. Specifically, we determined that fencing may be necessary in those areas where grazing could not be adequately monitored to ensure the primary constituent elements were not adversely modified. We also believe that it is not possible to assert, with any accuracy, that all consultations within occupied units could not be attributed solely to the designation of critical habitat. Therefore, we believe that a small percentage of consultations within occupied units may be attributed solely to the designation of critical habitat. However, we determined these impacts would be negligible. Within areas currently occupied by California red-legged frogs, activities that may affect critical habitat would also affect the species, and would thus be subject to consultation whether or not critical habitat is designated.

We believe that any project that would adversely modify or destroy critical habitat would also jeopardize the continued existence of the species, and that reasonable and prudent alternatives to avoid jeopardizing the species would also avoid adverse modification of critical habitat. Within the analysis, we determined there would be costs associated with the designation, however, these costs were determined to be negligible. Thus, no regulatory burden or associated significant additional costs would accrue because of critical habitat above and beyond that resulting from listing. Our economic analysis does recognize that there may be costs from delays associated with reinitiating completed consultations after the critical habitat designation is made final. There may also be economic effects due to the reaction of the real estate market to critical habitat designation, as real estate values may be lowered due to perceived increase in the regulatory burden. However, we believe this impact will be short-term.

In summary, in our economic analysis, we estimate that, over the next ten years, the total cost of this rulemaking will range between $23.6 and $56.9 million. This estimate is primarily attributable to costs associated with section 7 consultations and potential modifications to future residential and commercial real estate development projects. A copy of the final economic analysis and description of the exclusion process with supporting documents are included in our administrative record and may be obtained by contacting the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Required Determinations

1. Regulatory Planning and Review

This document has been designated as significant and reviewed by the Office of Management and Budget (OMB), in accordance with Executive Order 12866. OMB makes the final determination of significance 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 California red-legged frog was listed as a threatened subspecies in 1996. In fiscal years 1996 through 2000, the Sacramento, Carlsbad, and Ventura Fish and Wildlife Offices conducted, or are in the process of conducting, 144, 9, and 209, respectively, formal section 7 consultations with other Federal agencies to ensure their actions would not jeopardize the continued existence of the California red-legged frog.

Under the Act, critical habitat may not be adversely modified by a Federal agency action; the Act does not impose any restrictions through critical habitat designation on non-Federal persons unless they are conducting activities funded or otherwise sponsored, authorized, or permitted by a Federal agency. Section 7 requires Federal agencies to ensure that they do not jeopardize the continued existence of the species. Based upon our experience with the subspecies and its needs, we conclude that any Federal action or authorized action that could potentially cause adverse modification of designated critical habitat would currently be considered as ''jeopardy'' under the Act (see Table 2).

TABLE 2.—IMPACTS OF CALIFORNIA RED-LEGGED FROG 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].	Grazing permits, commercial or silvicultural logging prescriptions, Flood Control projects, Federal Emergency Management Act (FEMA) activities, Federal Highway Administration actions, Federal Housing Act actions.	None in occupied habitat. In unoccupied habitat, no additional types of activities will be affected, but consultation, previously not required due to listing, will be required on these activities.
Private Activities Potentially Affected [4].	Activities that require a Federal action (permitting, authorization, or funding) and may remove or destroy California red-legged frog habitat by mechanical, chemical, or other means (*e.g.,* grading, overgrazing, timber harvesting within riparian areas, construction, road building, herbicide application, recreational use) or appreciably decrease habitat value or quality through indirect effects (*e.g.,* edge effects, invasion of exotic plants or animals, fragmentation of habitat).	None.

[1] These columns represent activities potentially affected by the critical habitat designation in addition to those activities potentially affected by listing the species.
[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.

Accordingly, the designation of areas within the geographic range occupied by California red-legged frogs 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).

(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 California red-legged frogs since the listing in 1996. The prohibition against adverse modification of critical habitat is not expected to impose any substantial additional restrictions to those that currently exist. Because of the potential for impacts on other Federal agencies activities, we will continue to review this action for any inconsistencies with other Federal agencies 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 subspecies, and as discussed above we do not anticipate that the adverse modification prohibition (resulting from critical habitat designation) will have any significant incremental effects.

(d) OMB has determined that his rule will raise novel legal or policy issues and, as a result, this rule has undergone OMB review.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

In the economic analysis, we determined that designation of critical habitat will not have a significant effect on a substantial number of small entities. As discussed under Regulatory Planning and Review above and in this final determination, this rule is not expected to result in any restrictions in addition to those currently in existence. As indicated in Table 1 (see Critical Habitat Designation section), we designated property owned by Federal, State and local governments, and private property.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are:

(1) Regulation of activities affecting waters of the U. S. under section 404 of the Clean Water Act;

(2) Regulation of water flows, damming, diversion, and channelization by Federal agencies;

(3) Road construction, right of way designation, or regulation of agricultural activities by Federal agencies;

(4) Hazard mitigation and post-disaster repairs funded by FEMA;

(5) Construction of communication sites licensed by the Federal Communications Commission; and

(6) Regulation of grazing, mining, and recreation by the Forest Service or BLM;

(7) Military training, maneuvers, and other activities on applicable DOD lands;

(8) Funding of activities by the EPA, DOE, FHA, or any other Federal agency.

Many of the activities sponsored by Federal agencies within 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 already currently required to comply with the protections of the Act, and the designation of critical habitat is not anticipated to have any additional effects on these activities.

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, however,

this final rule will have no additional restrictions.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2))

In the economic analysis, we determined whether designation of critical habitat would 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. Please refer to the final economic analysis for a discussion of the effects of this determination.

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 having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. However, as discussed above, these actions are currently subject to equivalent restrictions through the listing protections of the subspecies, and no further restrictions are anticipated.

(b) This rule will not produce a Federal mandate of $100 million or greater in any year, that is, 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. A takings implication assessment is not required. As discussed above, the designation of critical habitat affects only Federal actions. The rule will not increase or decrease the current restrictions on private property concerning take of the California red-legged frog. Due to current public knowledge of the subspecies' protections, the prohibition against take of the subspecies both within and outside of the designated areas, and the fact that critical habitat provides no substantial incremental restrictions, we do not anticipate that property values will be affected by the critical habitat designation. While real estate market values may temporarily decline following designation, due to the perception that critical habitat designation may impose additional regulatory burdens on land use, we expect any such impacts to be short term. Additionally, critical habitat designation does not preclude development of HCPs and issuance of incidental take permits. Owners of areas that are included in the designated critical habitat will continue to have the opportunity to utilize their property in ways consistent with the survival of the California red-legged frog.

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, we requested information from and coordinated development of this critical habitat designation with appropriate State resource agencies in California. The designation of critical habitat in areas currently occupied by the California red-legged frog imposes no substantial 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 subspecies are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the subspecies are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it 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 has 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. We designated critical habitat in accordance with the provisions of the Endangered Species Act. 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 California red-legged frog.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any information collection requirements that require OMB approval under the Paperwork Reduction Act. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB Control Number.

National Environmental Policy Act

We have determined that an Environmental Assessment and/or an Environmental Impact Statement as defined by the National Environmental Policy Act of 1969 need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act as amended. We published a notice outlining our reason for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Government-to-Government Relationship With Tribes

In accordance with the Presidential Memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we coordinated with federally recognized Tribes on a Government-to-Government basis. We considered proposing portions of the Santa Ynez Band of the Chumash Mission Indian Reservation because we believed riparian and adjoining upland areas on Tribal lands may be essential to the conservation of California red-legged frogs. Since the time of the proposal, we have consulted with the Tribe and evaluated additional information to make a determination as to whether any Tribal lands should be included as critical habitat for California red-legged frogs. We excluded these lands from critical habitat upon our determination that this small parcel is not essential because it contains marginal habitat and would provide limited long-term conservation value to the species. Recent surveys by the Tribe also did not detect California red-legged frogs on the parcel. The changes are detailed in the Summary of Changes From the Proposed Rule section.

Relationship With Mexico

We are not aware of any existing national-level regulatory mechanism in Mexico that would protect the California red-legged frog or its habitat. Although new legislation for wildlife is pending in Mexico, and Mexico has laws that could provide protection for rare species, there are enforcement challenges. Even if specific protections were available and enforceable in

Mexico, the portion of the California red-legged frog's range in Mexico alone, in isolation, would not be adequate to ensure the long-term conservation of the subspecies.

References Cited

A complete list of all references cited in this final rule is available upon request from the Sacramento Fish and Wildlife Office (see **ADDRESSES** section).

Authors

The primary authors of this final rule are Curt McCasland and Jason Davis, Sacramento Fish and Wildlife Office, and Douglas Krofta, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

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

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

2. In § 17.11(h) revise the entry for ''Frog, California red-legged,'' under ''AMPHIBIANS,'' 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						
*	*	*	*	*	*		*
AMPHIBIANS							
*	*	*	*	*	*		*
Frog,California red-legged.	*Rana aurora draytonii*.	U.S.A (CA), Mexico.	Entire (excluding Del Norte, Humboldt, Trinity, & Mendocino Cos., CA; Glenn, Lake, and Sonoma Cos., CA, west of the Central Valley Hydrologic Basin; Sonoma & Marin Cos., CA, west & North of San Francisco Bay drainages and Walker Creek drainage; and NV).	T	583	17.95(d)	NA
*	*	*	*	*	*		*

3. Amend § 17.95(d) by adding critical habitat for the California red-legged frog (*Rana aurora draytonii*) in the same alphabetical order as this subspecies occurs in § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(d) *Amphibians.*

* * * * *

CALIFORNIA RED-LEGGED FROG (*Rana aurora draytonii*)

1. Critical habitat units are depicted for Alameda, Butte, Contra Costa, El Dorado, Fresno, Kern, Los Angeles, Marin, Mariposa, Merced, Monterey, Napa, Plumas, Riverside, San Benito, San Diego, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Tehama, Tuolumne, and Ventura counties, California, on the maps below.

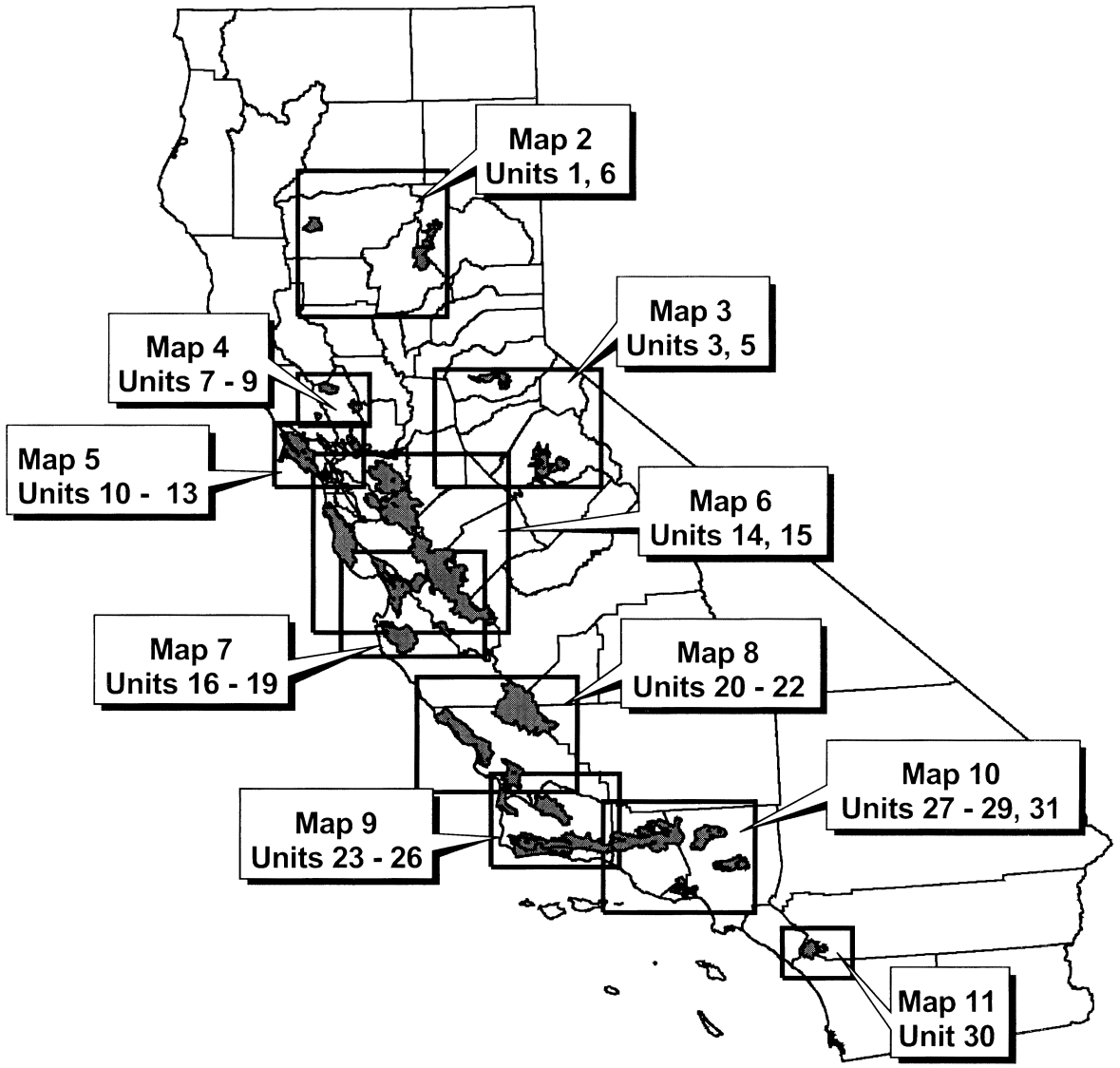
2. Critical habitat includes: Essential aquatic habitat; associated uplands; and dispersal habitat connecting essential aquatic habitat.

3. Within these areas, primary constituent elements of the California red-legged frog include the following habitat components. Essential aquatic components consists of all still or slow-flowing freshwater aquatic features possessing minimum water depths of 0.5 m (20 in.), with the exception of deep lacustrine water habitat (lakes and reservoirs greater than 20 ha (50 ac)) inhabited by nonnative predators, that are essential for providing space, food, and cover needed to sustain eggs, tadpoles, metamorphosing juveniles, nonbreeding subadults, and breeding and nonbreeding adult frogs, *and* are found in areas with two or more suitable breeding locations and a permanent water source with no more than 2 km (1.25 mi) separating these locations. Essential dispersal habitat consists of upland and aquatic areas, free of barriers and at least 90 m (300 ft) wide; this element is essential for providing connectivity between aquatic breeding areas identified above. Upland habitat components are areas within 90 m (300 ft) from the edge of the essential aquatic primary constituent element. In situations where a watershed boundary is less than 90 m (300 ft) from suitable habitat, the top of the watershed shall be the boundary for this constituent element.

4. Existing features and structures within the boundaries of the mapped units, such as buildings, roads, aqueducts, railroads, other paved areas, lawns, and other urban landscaped areas, and uplands removed from essential aquatic and dispersal habitat, will not contain one or more of the primary constituent elements and, therefore, would not trigger a section 7 consultation, unless they affect the species and/or primary constituent elements in adjacent critical habitat.

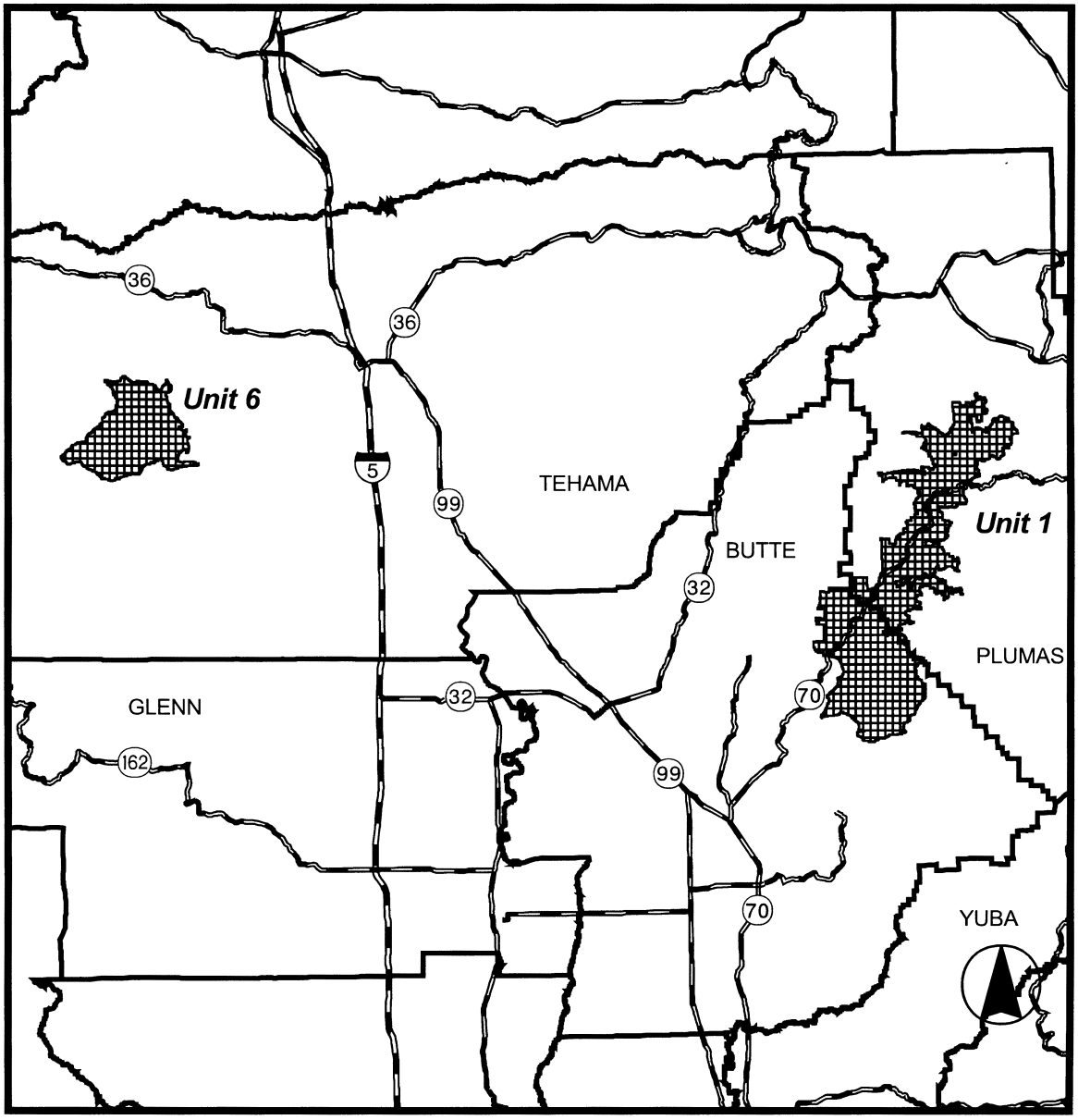
BILLING CODE 4310–55–P

Map 1 - Index
Final California Red - Legged Frog
Critical Habitat Units



100 0 100 200 Miles

Approximate Map Scale 1:7,500,000



Map 2 - Critical Habitat
Units 1 and 6
California Red-Legged Frog

7 0 7 14 21 28 Miles

1:1044437

BILLING CODE 4310–55–C

Unit 1. North Fork Feather: Plumas and Butte Counties, California. From USGS 1:24,000 quadrangle maps Almanor, Belden, Berry Creek, Brush Creek, Bucks Lake, Caribou, Haskins Valley, Kimshew Point, Pulga, Soapstone Hill, and Storrie, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 653700, 4444100; 653900, 4444100; 653900, 4444000; 654000, 4444000; 654000, 4443800; 653800, 4443800; 653800, 4443600; 654000, 4443600; 654000, 4443500; 654200, 4443500; 654200, 4443600; 654300, 4443600; 654300, 4443500; 654900, 4443500; 654900, 4443400; 655000, 4443400; 655000, 4443200; 655100, 4443200; 655100, 4443100; 655200, 4443100; 655200, 4442900; 655100, 4442900; 655100, 4442800; 655000, 4442800; 655000, 4442600; 654800, 4442600; 654800, 4442200; 654900, 4442200; 654900, 4442000; 654800, 4442000; 654800, 4441600; 655000, 4441600; 655000, 4441700; 655200, 4441700; 655200, 4441800; 655300, 4441800; 655300, 4441700; 655400, 4441700; 655400, 4441600; 655200, 4441600; 655200, 4441400; 655300, 4441400; 655300, 4441200; 655000, 4441200; 655000, 4441100; 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Excluding lands bounded by: 644900, 4417600; 644500, 4417600; 644500, 4417500; 644400, 4417500; 644400, 4417400; 644300, 4417400; 644300, 4417300; 644200, 4417300; 644200, 4416900; 644100, 4416900; 644100, 4416700; 644000, 4416700; 644000, 4416400; 644100, 4416400; 644100, 4416200; 644200, 4416200; 644200, 4416000; 644300, 4416000; 644300, 4415900; 644500, 4415900; 644500, 4416000; 644600, 4416000; 644600, 4416400; 644500, 4416400; 644500, 4416600; 644600, 4416600; 644600, 4416800; 644800, 4416800; 644800, 4417000; 644900, 4417000; 644900, 4417100; 645000, 4417100; 645000, 4417200; 645100, 4417200; 645100, 4417500; 644900, 4417500; 644900, 4417600.

Excluding lands bounded by: 647100, 4417600; 647000, 4417600; 647000, 4417400; 647200, 4417400; 647200, 4417500; 647100, 4417500; 647100, 4417600.

Excluding lands bounded by: 643600, 4417400; 643300, 4417400; 643300, 4417300; 643200, 4417300; 643200, 4417200; 643100, 4417200; 643100, 4417100; 642900, 4417100; 642900, 4417000; 642300, 4417000; 642300, 4416800; 642200, 4416800; 642200, 4416600; 642400, 4416600; 642400, 4416100; 642700, 4416100; 642700, 4416200; 642600, 4416200; 642600, 4416400; 642900, 4416400; 642900, 4416600; 643000, 4416600; 643000, 4416800; 643100, 4416800; 643100, 4416600; 643200, 4416600; 643200, 4416400; 643300, 4416400; 643300, 4416500; 643400, 4416500; 643400, 4416700; 643500, 4416700; 643500, 4416800; 643600, 4416800; 643600, 4416900; 643700, 4416900; 643700, 4417300; 643600, 4417300; 643600, 4417400.

Excluding lands bounded by: 649000, 4416800; 648700, 4416800; 648700, 4416600; 649000, 4416600; 649000, 4416800.

Excluding lands bounded by: 641000, 4409800; 640500, 4409800; 640500, 4409700; 640400, 4409700; 640400, 4409500; 640500, 4409500; 640500, 4409300; 640700, 4409300; 640700, 4409200; 640800, 4409200; 640800, 4409000; 641000, 4409000; 641000, 4409100; 641100, 4409100; 641100, 4409600; 641000, 4409600; 641000, 4409800.

Unit 6. Headwaters of Cottonwood Creek: Tehama County, California. From USGS 1:24,000 quadrangle maps Cold Fork, Lowrey, Oxbow Bridge, and Raglin Ridge, land bounded by the following UTM Zone 10 NAD83 coordinates (E, N): 531300, 4446500; 531600, 4446500; 531600, 4446400; 531700, 4446400; 531700, 4446300; 531800, 4446300; 531800, 4446200; 532000, 4446200; 532000, 4446000; 532100, 4446000; 532100, 4445900; 532300, 4445900; 532300, 4445800; 532400, 4445800; 532400, 4445700; 532600, 4445700; 532600, 4445600; 532800, 4445600; 532800, 4445500; 533000, 4445500; 533000, 4445600; 533300, 4445600; 533300, 4445800; 533600, 4445800; 533600, 4445700; 534000, 4445700; 534000, 4445600; 534300, 4445600; 534300, 4445700; 534800, 4445700; 534800, 4445600; 534900, 4445600; 534900, 4445500; 535000, 4445500; 535000, 4445400; 535600, 4445400; 535600, 4445300; 535700, 4445300; 535700, 4445200; 535900, 4445200; 535900, 4445100; 536000, 4445100; 536000, 4444900; 536100, 4444900; 536100, 4444800; 536200, 4444800; 536200, 4444700; 536300, 4444700; 536300, 4444600; 536400, 4444600; 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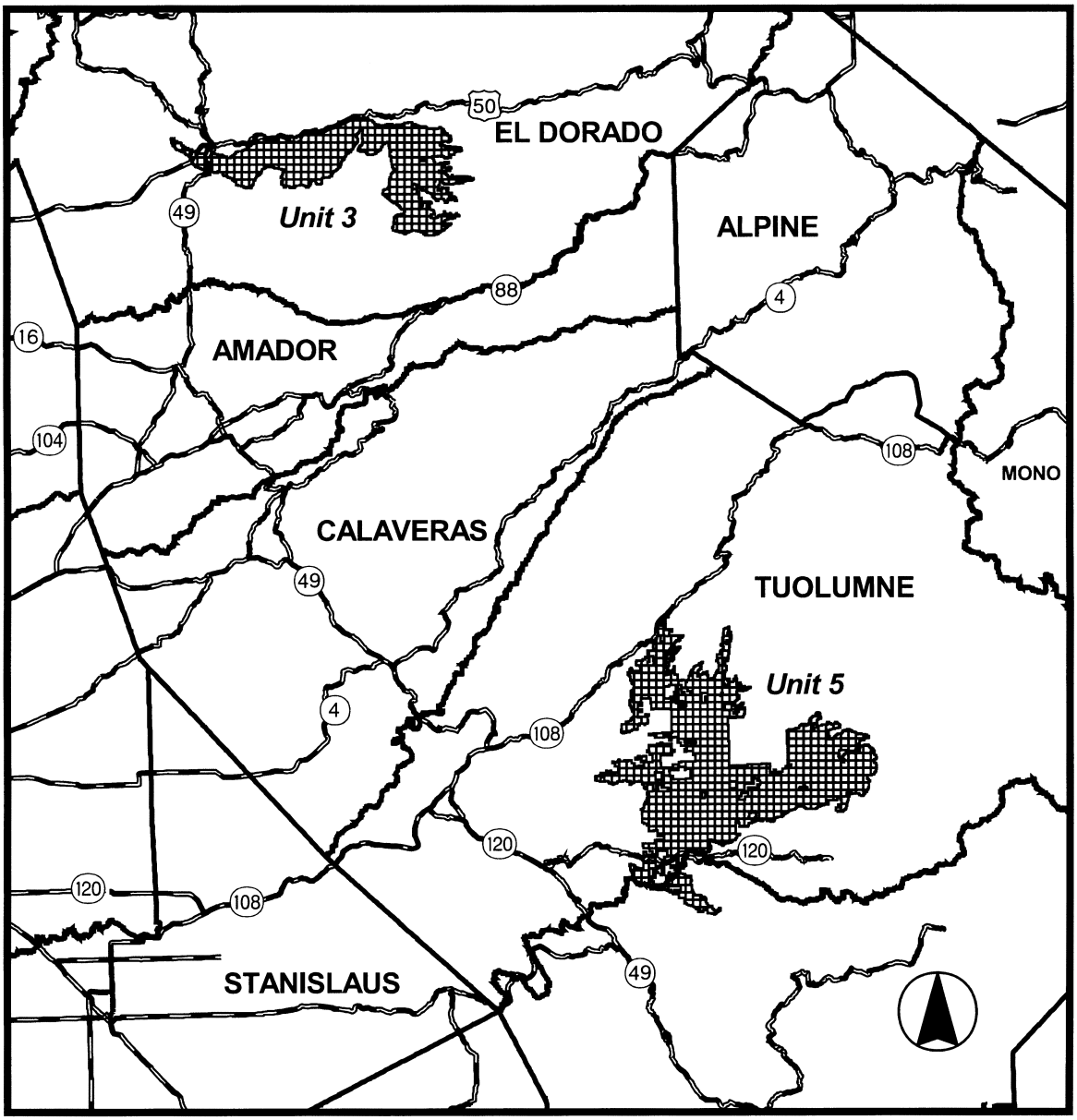
BILLING CODE 4310–55–P



Map 3 - Critical Habitat
Units 3 and 5
California Red-Legged Frog

9 0 9 18 Miles

1:867925

BILLING CODE 4310–55–C

Unit 3. Weber Creek-Consumnes: Eldorado County, California. From USGS 1:24,000 quadrangle maps Caldor, Camino, Omo Ranch, Placerville, Pollock Pines, Riverton, Sly Park, Stump Spring, lands bounded by the following UTM Zone 10 NAD83 coordinates (E, N): 710200, 4293200; 710700, 4293200; 710700, 4293100; 711000, 4293100; 711000, 4293000; 711100, 4293000; 711100, 4292900; 711700, 4292900; 711700, 4293000; 711900, 4293000; 711900, 4292900; 712100, 4292900; 712100, 4292800; 712400, 4292800; 712400, 4292700; 712500, 4292700; 712500, 4292600; 712900, 4292600; 712900, 4292500; 713000, 4292500; 713000, 4292400; 713100, 4292400; 713100, 4292300; 713200, 4292300; 713200, 4292100; 713400, 4292100; 713400, 4292000; 713800, 4292000; 713800, 4291900; 714800, 4291900; 714800, 4292000; 715000, 4292000; 715000, 4292100; 715700, 4292100; 715700, 4292000; 715800, 4292000; 715800, 4291900; 716300, 4291900; 716300, 4292000; 717200, 4292000; 717200, 4292100; 717400, 4292100; 717400, 4292200; 717900, 4292200; 717900, 4292300; 718400, 4292300; 718400, 4292200; 718500, 4292200; 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Excluding lands bound by: 720100, 4287200; 719700, 4287200; 719700, 4287000; 719800, 4287000; 719800, 4286900; 720200, 4286900; 720200, 4287100; 720100, 4287100; 720100, 4287200.

Excluding lands bound by: 721700, 4284300; 721500, 4284300; 721500, 4284100; 721700, 4284100; 721700, 4284300.

Excluding lands bound by: 719900, 4281100; 719800, 4281100; 719800, 4281000; 719700, 4281000; 719700, 4280700; 719900, 4280700; 719900, 4280800; 720000, 4280800; 720000, 4280900; 719900, 4280900; 719900, 4281100.

Unit 5. Yosemite: Tuolumne and Mariposa counties, California. From USGS 1:24,000 quadrangle maps Ackerson Mtn, Ascension Mtn, Buckhorn Peak, Cherry Lake North, Cherry Lake South, Duckwall Mtn, Groveland, Hull Creek, Jawbone Ridge, Lake Eleanor, Strawberry, Tuolumne, and Twain Harte, all federal lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): Subunit A (West): 753500, 4206700; 753200, 4206700; 753200, 4206600; 752000, 4206600; 752000, 4206900; 751200, 4206900; 751200, 4207100; 751900, 4207100; 751900, 4207200; 753100, 4207200; 753100, 4207300; 754400, 4207300; 754400, 4207500; 754300, 4207500; 754300, 4210500; 754200, 4210500; 754200, 4210600; 751800, 4210600; 751800, 4210500; 751500, 4210500; 751500, 4211400; 751400, 4211400; 751400, 4212100; 750100, 4212100; 750100, 4211500; 750200, 4211500; 750200, 4211000; 749900, 4211000; 749900, 4211200; 749600, 4211200; 749600, 4210300; 749900, 4210300; 749900, 4210500; 750200, 4210500; 750200, 4210200; 749600, 4210200; 749600, 4209400; 749900, 4209400; 749900, 4209500; 750700, 4209500; 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Excluding lands bounded by: 753500, 4206700; 753800, 4206700; 753800, 4206800; 753900, 4206800; 753900, 4207100; 753600, 4207100; 753600, 4207000; 753500, 4207000; 753500, 4206700.

Excluding lands bounded by: 753300, 4220900; 752800, 4220900; 752800, 4220000; 753300, 4220000; 753300, 4220900.

Excluding lands bounded by: 762200, 4220200; 762000, 4220200; 762000, 4219700; 762200, 4219700; 762200, 4219900; 762300, 4219900; 762300, 4220100; 762200, 4220100; 762200, 4220200.

Excluding lands bounded by: 751800, 4218000; 751300, 4218000; 751300, 4217200; 751000, 4217200; 751000, 4216700; 751900, 4216700; 751900, 4217400; 751800, 4217400; 751800, 4218000.

Excluding lands bounded by: 758000, 4215300; 757900, 4215300; 757900, 4215100; 758000, 4215100; 758000, 4215300.

Excluding lands bounded by: 754900, 4213900; 754000, 4213900; 754000, 4213800; 753200, 4213800; 753200, 4213500; 753300, 4213500; 753300, 4212100; 754200, 4212100; 754200, 4212300; 754300, 4212300; 754300, 4212100; 754400, 4212100; 754400, 4212000; 754600, 4212000; 754600, 4211800; 754700, 4211800; 754700, 4211700; 754900, 4211700; 754900, 4211500; 755000, 4211500; 755000, 4211400; 755100, 4211400; 755100, 4211800; 755000, 4211800; 755000, 4212200; 754900, 4212200; 754900, 4212300; 754800, 4212300; 754800, 4212400; 754700, 4212400; 754700, 4212500; 755100, 4212500; 755100, 4212700; 754800, 4212700; 754800, 4212900; 754700, 4212900; 754700, 4213000; 755000, 4213000; 755000, 4213200; 754900, 4213200; 754900, 4213900.

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Excluding lands bounded by: 759400, 4212800; 758500, 4212800; 758500, 4211500; 759000, 4211500; 759000, 4212300; 759400, 4212300; 759400, 4212800.

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Excluding lands bounded by: 755800, 4211700; 755500, 4211700; 755500, 4211600; 755600, 4211600; 755600, 4210900; 756000, 4210900; 756000, 4211000; 756400, 4211000; 756400, 4211200; 756300, 4211200; 756300, 4211300; 756200, 4211300; 756200, 4211500; 756100, 4211500; 756100, 4211600; 755900, 4211600; 755900, 4211500; 755800, 4211500; 755800, 4211700.

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Excluding lands bounded by: 744800, 4201200; 744500, 4201200; 744500, 4200900; 744700, 4200900; 744700, 4201000; 744800, 4201000; 744800, 4201200.

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Subunit B (East): lands bounded by the following UTM zone 11 NAD83 coordinates (E, N): 236800, 4215200; 236900, 4215200; 236900, 4214800; 237000, 4214800; 237000, 4214600; 236900, 4214600; 236900, 4214300; 236800, 4214300; 236800, 4214000; 236900, 4214000; 236900, 4213700; 237100, 4213700; 237100, 4213800; 237300, 4213800; 237300, 4214100; 237200, 4214100; 237200, 4214200; 237300, 4214200; 237300, 4214300; 237400, 4214300; 237400, 4213900; 237500, 4213900; 237500, 4213500; 237600, 4213500; 237600, 4213400; 237800, 4213400; 237800, 4213600; 237900, 4213600; 237900, 4213700; 238000, 4213700; 238000, 4213500; 238500, 4213500; 238500, 4213600; 238800, 4213600; 238800, 4213400; 238500, 4213400; 238500, 4213300; 238300, 4213300; 238300, 4213200; 238100, 4213200; 238100, 4213100; 237700, 4213100; 237700, 4213000; 237500, 4213000; 237500, 4213100; 237300, 4213100; 237300, 4213200; 236900, 4213200; 236900, 4213000; 236800, 4213000; 236800, 4212600; 236900, 4212600; 236900, 4212500; 237100, 4212500; 237100, 4212400; 237000, 4212400; 237000, 4212200; 237100, 4212200; 237100, 4212100; 237000, 4212100; 237000, 4212000; 236900, 4212000; 236900, 4211900; 236800, 4211900; 236800, 4211800; 236700, 4211800; 236700, 4211700; 236600, 4211700; 236600, 4215100; 236800, 4215100; 236800, 4215200

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Excluding lands bounded by: 253300, 4204200; 253100, 4204200; 253100, 4204000; 253300, 4204000; 253300, 4204200.

Excluding lands bounded by: 251100, 4203900; 250500, 4203900; 250500, 4203800; 250400, 4203800; 250400, 4203200; 250300, 4203200; 250300, 4203100; 250200, 4203100; 250200, 4203000; 250300, 4203000; 250300, 4202900; 250800, 4202900; 250800, 4203000; 250900, 4203000; 250900, 4203200; 251000, 4203200; 251000, 4203300; 251300, 4203300; 251300, 4203400; 251400, 4203400; 251400, 4203500; 251500, 4203500; 251500, 4203700; 251400, 4203700; 251400, 4203800; 251100, 4203800; 251100, 4203900.

Excluding lands bounded by: 252700, 4203900; 252600, 4203900; 252600, 4203700; 252000, 4203700; 252000, 4203400; 252400, 4203400; 252400, 4203500; 252500, 4203500; 252500, 4203400; 252600, 4203400; 252600, 4203300; 252700, 4203300; 252700, 4203200; 252900, 4203200; 252900, 4203400; 253000, 4203400; 253000, 4203500; 253100, 4203500; 253100, 4203600; 253200, 4203600; 253200, 4203900; 252900, 4203900; 252900, 4203800; 252700, 4203800; 252700, 4203900.

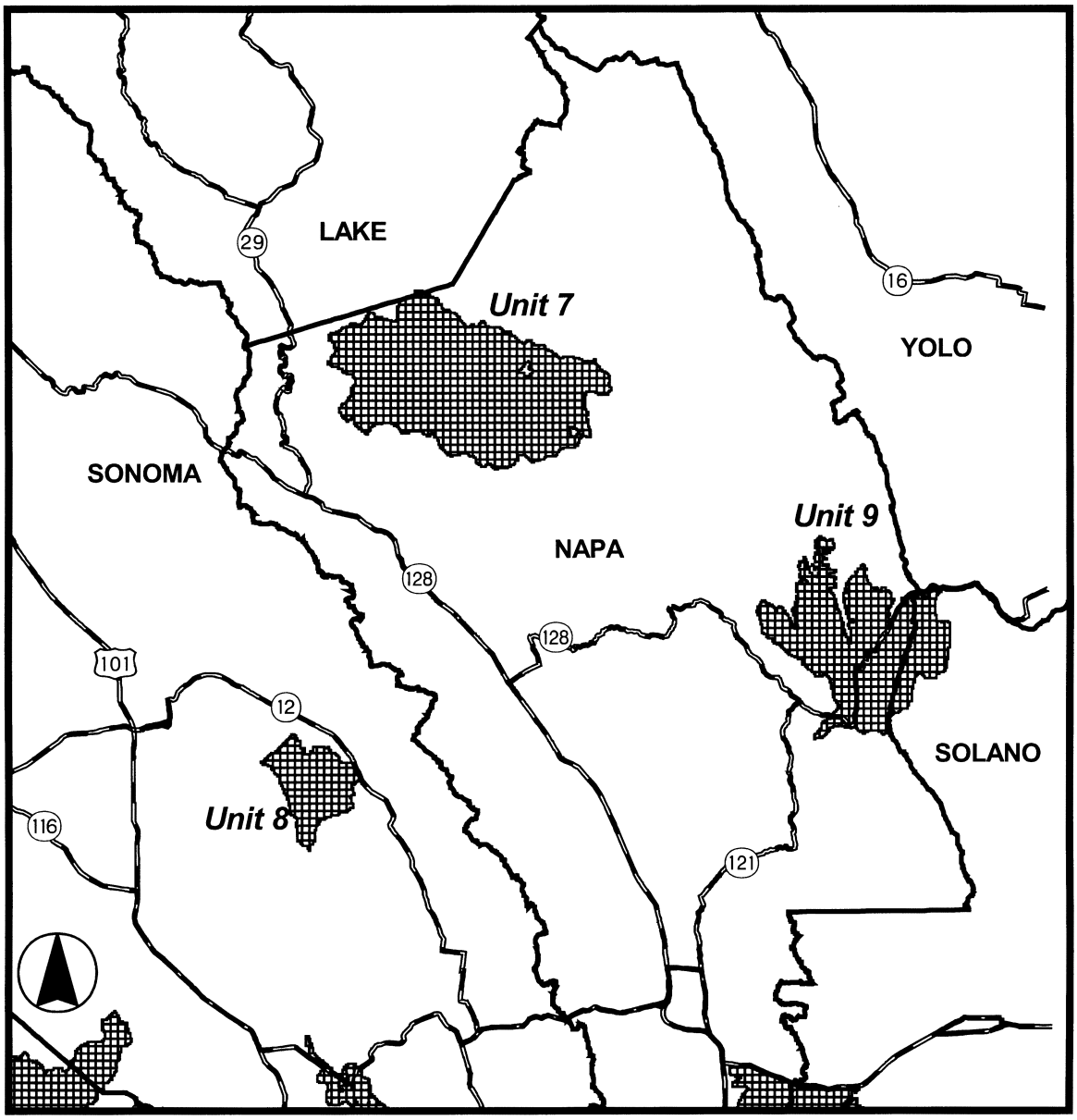
Excluding lands bounded by: 251000, 4202600; 250900, 4202600; 250900, 4202500; 250800, 4202500; 250800, 4202300; 250900, 4202300; 250900, 4202200; 251000, 4202200; 251000, 4202300; 251100, 4202300; 251100, 4202500; 251000, 4202500; 251000, 4202600.

Excluding lands bounded by: 238600, 4200800; 238400, 4200800; 238400, 4200600; 238300, 4200600; 238300, 4200000; 237000, 4200000; 237000, 4199000; 237400, 4199000; 237400, 4199100; 237500, 4199100; 237500, 4199500; 238600, 4199500; 238600, 4199400; 238800, 4199400; 238800, 4199800; 239200, 4199800; 239200, 4200300; 238800, 4200300; 238800, 4200600; 238900, 4200600; 238900, 4200700; 238600, 4200700; 238600, 4200800.

Excluding lands bounded by: 245400, 4199200; 245200, 4199200; 245200, 4199100; 244700, 4199100; 244700, 4199000; 244600, 4199000; 244600, 4198800; 244500, 4198800; 244500, 4198700; 244800, 4198700; 244800, 4198600; 245000, 4198600; 245000, 4198700; 245100, 4198700; 245100, 4198600; 245500, 4198600; 245500, 4198700; 245600, 4198700; 245600, 4198800; 245700, 4198800; 245700, 4199000; 245600, 4199000; 245600, 4199100; 245400, 4199100; 245400, 4199200.

Excluding lands bounded by: 238400, 4196000; 237700, 4196000; 237700, 4195900; 237400, 4195900; 237400, 4195400; 237300, 4195400; 237300, 4195200; 237200, 4195200; 237200, 4195100; 238200, 4195100; 238200, 4195300; 238300, 4195300; 238300, 4195900; 238400, 4195900; 238400, 4196000.

BILLING CODE 4310–55–P



Map 4 - Critical Habitat
Units 7,8, 9
California Red-Legged Frog

4 0 4 8 Miles

1:494493

BILLING CODE 4310–55–C

Unit 7. Cleary Preserve: Napa County, California. From USGS 1:24,000 quadrangle maps Aetna Springs, Calistoga, Chiles Valley, Detert Reservoir, St. Helena, and Walter Springs, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 544000, 4283700; 544500, 4283700; 544500, 4283500; 544700, 4283500; 544700, 4283400; 545000, 4283400; 545000, 4283300; 545200, 4283300; 545200, 4283200; 545500, 4283200; 545500, 4283100; 545600, 4283100; 545600, 4282800; 545800, 4282800; 545800, 4282500; 545900, 4282500; 545900, 4282400; 546300, 4282400; 546300, 4282300; 546400, 4282300; 546400, 4282200; 546700, 4282200; 546700, 4282100; 546800, 4282100; 546800, 4282000; 546900,
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Excluding lands bounded by: 551700, 4278900; 551700, 4278800; 551500, 4278800; 551500, 4278700; 551400, 4278700; 551400, 4278500; 551300, 4278500; 551300, 4278400; 551200, 4278400; 551200, 4278300; 551000, 4278300; 551000, 4278200; 551100, 4278200; 551100, 4278100; 551400, 4278100; 551400, 4277900; 551600, 4277900; 551600, 4277800; 551700, 4277800; 551700, 4277900; 551800, 4277900; 551800, 4278000; 551900, 4278000; 551900, 4278100; 552000, 4278100; 552000, 4278300; 551800, 4278300; 551800, 4278400; 551700, 4278400; 551700, 4278500; 551800, 4278500; 551800, 4278900; 551700, 4278900.

Unit 8. Annadel State Park Preserve: Sonoma County, California. From USGS 1:24,000 quadrangle maps Glen Ellen, and Kenwood, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 535600, 4253400; 535800, 4253400; 535800, 4253300; 535900, 4253300; 535900, 4253100; 536000, 4253100; 536000, 4252900; 536200, 4252900; 536200, 4252400; 536500, 4252400; 536500, 4252000; 536900, 4252000; 536900, 4252200; 537100, 4252200; 537100, 4252500; 537900, 4252500; 537900, 4252400; 538100, 4252400; 538100, 4252500; 538200, 4252500; 538200, 4252300; 538300, 4252300; 538300, 4252100; 538600,
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Unit 9. Stebbins Cold Canyon Preserve: Napa and Sonoma Counties, California. From USGS 1:24,000 quadrangle maps Capell Valley, Lake Berryessa, Monticello Dam, and Mt. Vaca, lands bounded by the following UTM zone 10 NAD83 Coordinates (E, N): 571500, 4266900; 571600, 4266900; 571600, 4266800; 571800, 4266800; 571800, 4266700; 571900, 4266700; 571900, 4266600; 572200, 4266600; 572200, 4266700; 572400, 4266700; 572400, 4266400; 572500, 4266400; 572500, 4266100; 572400, 4266100; 572400, 4266000; 572200, 4266000; 572200, 4265800; 572000, 4265800; 572000, 4265700; 571900, 4265700; 571900, 4266000; 571700, 4266000; 571700, 4265500; 571800, 4265500; 571800, 4265400; 572000, 4265400; 572000, 4265300; 571700, 4265300; 571700, 4264900; 571800, 4264900; 571800, 4265000; 572100, 4265000; 572100, 4264900; 572000, 4264900; 572000, 4264700; 572200, 4264700; 572200, 4264600; 572600, 4264600; 572600, 4264500; 572500, 4264500; 572500, 4264400; 572200, 4264400; 572200, 4264300; 572000, 4264300; 572000, 4264200; 572300, 4264200; 572300, 4264100; 572400, 4264100; 572400, 4264200; 572500, 4264200; 572500, 4264100; 572600, 4264100; 572600, 4264000; 572500, 4264000; 572500, 4263700; 572600, 4263700; 572600, 4263400; 572200, 4263400; 572200, 4263300; 572300, 4263300; 572300, 4263200; 572200, 4263200; 572200, 4263100; 572300, 4263100; 572300, 4263000; 572400, 4263000; 572400, 4262900; 572500, 4262900; 572500, 4262600; 572600, 4262600; 572600, 4262400; 572500, 4262400; 572500, 4262300; 572600, 4262300; 572600, 4262200; 572700, 4262200; 572700, 4262000; 572600, 4262000; 572600, 4261900; 572800, 4261900; 572800, 4261700; 572900, 4261700; 572900, 4261300; 573000, 4261300; 573000, 4261000; 573100, 4261000; 573100, 4260500; 573200, 4260500; 573200, 4260200; 573300, 4260200; 573300, 4260000; 573400, 4260000; 573400, 4259600; 573600, 4259600; 573600, 4260600; 573500, 4260600; 573500, 4260800; 573400, 4260800; 573400, 4260900; 573500, 4260900; 573500, 4261100; 573600, 4261100; 573600, 4261000; 573800, 4261000; 573800, 4261200; 573500, 4261200; 573500, 4261300; 573400, 4261300; 573400, 4261600; 573300, 4261600; 573300, 4261700; 573400, 4261700; 573400, 4261800; 573500, 4261800; 573500, 4261900; 573300, 4261900; 573300, 4262000; 573200, 4262000; 573200, 4262400; 573100, 4262400; 573100, 4262500; 573200, 4262500; 573200, 4262700; 573100, 4262700; 573100, 4263000; 573400, 4263000; 573400, 4263100; 573300, 4263100; 573300, 4263200; 573200, 4263200; 573200, 4263300; 573300, 4263300; 573300, 4263700; 573400, 4263700; 573400, 4263800; 573500, 4263800; 573500, 4264000; 573600, 4264000; 573600, 4264100; 573700, 4264100; 573700, 4264200; 574000, 4264200; 574000, 4264400; 573900, 4264400; 573900, 4264500; 574100, 4264500; 574100, 4264700; 574300, 4264700; 574300, 4264900; 574400, 4264900; 574400, 4265000; 574500, 4265000; 574500, 4264900; 574600, 4264900; 574600, 4264700; 574700, 4264700; 574700,
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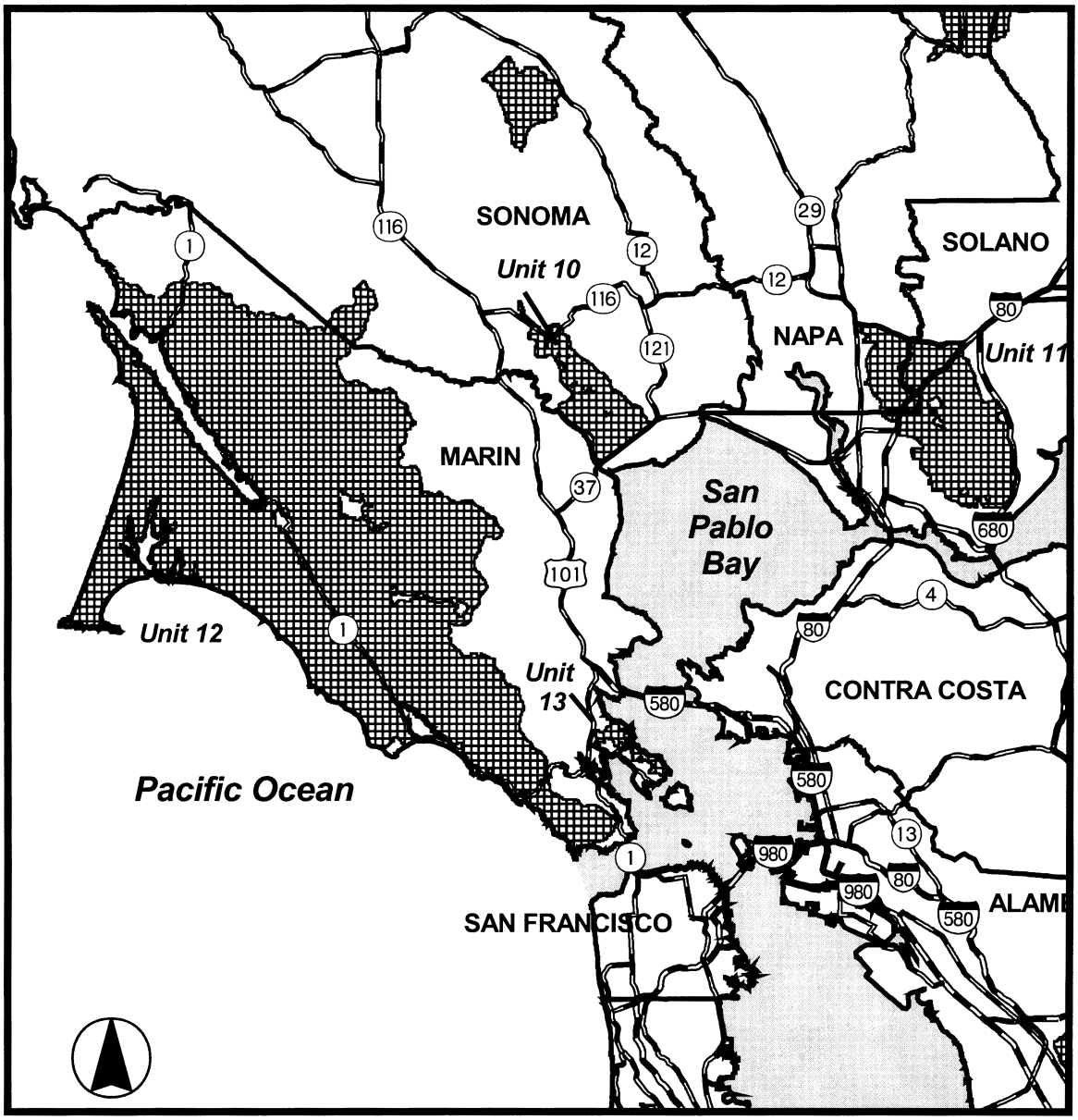
BILLING CODE 4310–55–P



Map 5 - Critical Habitat
Units 10,11,12,13
California Red-Legged Frog

5 0 5 10 Miles

1:613122

BILLING CODE 4310–55–P

Unit 10. Sears Point: Sonoma County, California. From USGS 1:24,000 quadrangle maps Novato, Petaluma Point, Petaluma River, and Sears Point, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 539100, 4230100; 539100, 4230400; 539200, 4230400; 539200, 4230600; 539300, 4230600; 539300, 4230700; 539500, 4230700; 539500, 4230800; 540000, 4230800; 540000, 4230600; 540100, 4230600; 540100, 4230500; 540200, 4230500; 540200, 4230400; 540300, 4230400; 540300, 4230300; 540400, 4230300; 540400, 4229900; 540600, 4229900; 540600, 4229800; 540800, 4229800; 540800, 4229700; 540900, 4229700; 540900, 4229300; 541000, 4229300; 541000, 4228900; 540900, 4228900; 540900, 4228700; 541100, 4228700; 541100, 4228600; 541300, 4228600; 541300, 4228400; 541400, 4228400; 541400, 4228300; 541500, 4228300; 541500, 4228200; 541600, 4228200; 541600, 4228100; 541800, 4228100; 541800, 4228000; 541900, 4228000; 541900, 4227900; 542000, 4227900; 542000, 4227800; 542200, 4227800; 542200, 4227700; 542400, 4227700; 542400, 4227600; 542500, 4227600; 542500, 4227500; 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Excluding lands bounded by: 539700, 4229400; 539700, 4229200; 539800, 4229200; 539800, 4229100; 539900, 4229100; 539900, 4229300; 539800, 4229300; 539800, 4229400; 539700, 4229400.

Excluding lands bounded by: 539700, 4229400; 539700, 4229500; 539600, 4229500; 539600, 4229400; 539700, 4229400.

Excluding lands bounded by: 540300, 4227500; 540300, 4227300; 540400, 4227300; 540400, 4227200; 540500, 4227200; 540500, 4227400; 540400, 4227400; 540400, 4227500; 540300, 4227500.

Excluding lands bounded by: 540300, 4227500; 540300, 4227600; 540200, 4227600; 540200, 4227500; 540300, 4227500.

Excluding lands bounded by: 539200, 4229700; 538900, 4229700; 538900, 4229500; 538800, 4229500; 538800, 4229300; 539200, 4229300; 539200, 4229700.

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Excluding lands bounded by: 540000, 4228400; 539900, 4228400; 539900, 4228300; 540000, 4228300; 540000, 4228400.

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Excluding lands bounded by: 544000, 4223400; 543800, 4223400; 543800, 4223000; 544000, 4223000; 544000, 4223400.

Excluding lands bounded by: 544500, 4223300; 544200, 4223300; 544200, 4223100; 544500, 4223100; 544500, 4223300.

Unit 11. American Canyon: Napa and Solano counties, California. From USGS 1:24,000 quadrangle maps Benicia, Cordelia, Cuttings Wharf, Fairfield South, and Vine Hill, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): Subunit A: 565600, 4230600; 566900, 4230600; 566900, 4230500; 567100, 4230500; 567100, 4230400; 567300, 4230400; 567300, 4230300; 567600, 4230300; 567600, 4230200; 567800, 4230200; 567800, 4230100; 568000, 4230100; 568000, 4230000; 568300, 4230000; 568300, 4229900; 568500, 4229900; 568500, 4229800; 568800, 4229800; 568800, 4229700; 569000, 4229700; 569000, 4229600; 569300, 4229600; 569300, 4229500; 569500, 4229500; 569500, 4229400; 569700, 4229400; 569700, 4229300; 570500, 4229300; 570500, 4229200; 571500, 4229200; 571500, 4229100; 571800, 4229100; 571800, 4229000; 572500, 4229000; 572500, 4229100; 573400, 4229100; 573400, 4229200; 574200, 4229200; 574200, 4229000; 574100, 4229000; 574100, 4228900; 574000, 4228900; 574000, 4228800; 573900, 4228800; 573900, 4229000; 573700, 4229000; 573700, 4228500; 573600, 4228500; 573600, 4228400; 573500, 4228400; 573500, 4228300; 573400, 4228300; 573400, 4228200; 573300, 4228200; 573300, 4228100; 573200, 4228100; 573200, 4228000; 573100, 4228000; 573100, 4227800; 573000, 4227800; 573000, 4227700; 572900, 4227700; 572900, 4227600; 572800, 4227600; 572800, 4227400; 572700, 4227400; 572700, 4227300; 572600, 4227300; 572600, 4227200; 572500, 4227200; 572500, 4227100; 572400, 4227100; 572400, 4227000; 572300, 4227000; 572300, 4226900; 572000, 4226900; 572000, 4226800; 571700, 4226800; 571700, 4226700; 571600, 4226700; 571600, 4226600; 571500, 4226600; 571500, 4226500; 571400, 4226500; 571400, 4226400; 571300, 4226400; 571300, 4226300; 571200, 4226300; 571200, 4226200; 571100, 4226200; 571100, 4226100; 571000, 4226100; 571000, 4226000; 570900, 4226000; 570900, 4225900; 570800, 4225900; 570800, 4225700; 570700, 4225700; 570700, 4225600; 570600, 4225600; 570600, 4225500; 570500, 4225500; 570500, 4225400; 570400, 4225400; 570400, 4225300; 570300, 4225300; 570300, 4225200; 570200, 4225200; 570200, 4225100; 570100, 4225100; 570100, 4225000; 570000, 4225000; 570000, 4224900; 569900, 4224900; 569900, 4224800; 569800, 4224800; 569800, 4224700; 569700, 4224700; 569700, 4224600; 569600, 4224600; 569600, 4224500; 569400, 4224500; 569400, 4224400; 569300, 4224400; 569300, 4224300; 569200, 4224300; 569200, 4224100; 569100, 4224100; 569100, 4223900; 569000, 4223900; 569000, 4223700; 568900, 4223700; 568900, 4223600; 568800, 4223600; 568800, 4223400; 568700, 4223400; 568700, 4223200; 568600, 4223200; 568600, 4223000; 568500, 4223000; 568500, 4222700; 568200, 4222700; 568200, 4222600; 568000, 4222600; 568000, 4222700; 567800, 4222700; 567800, 4222800; 567600, 4222800; 567600, 4222900; 567500, 4222900; 567500, 4223000; 567300, 4223000; 567300, 4223300; 567000, 4223300; 567000, 4223400; 567100, 4223400; 567100, 4223800; 567200, 4223800; 567200, 4224200; 567100, 4224200; 567100, 4224400; 567000, 4224400; 567000, 4224500; 566800, 4224500; 566800, 4224700; 566600, 4224700; 566600, 4224800; 566500, 4224800; 566500, 4225000; 566400, 4225000; 566400, 4225300; 566300, 4225300; 566300, 4225600; 566200, 4225600; 566200, 4225700; 565800, 4225700; 565800, 4225900; 566000, 4225900; 566000, 4226100; 566100, 4226100; 566100, 4226800; 566000, 4226800; 566000, 4227200; 565900, 4227200; 565900, 4227800; 566000, 4227800; 566000, 4228100; 566100, 4228100; 566100, 4228300; 566200, 4228300; 566200, 4228500; 566300, 4228500; 566300, 4228700; 566400, 4228700; 566400, 4228800; 566500, 4228800; 566500, 4228900; 566600, 4228900; 566600, 4229000; 566700, 4229000; 566700, 4229100; 566600, 4229100; 566600, 4229200; 565600, 4229200; 565600, 4229500; 565800, 4229500; 565800, 4229600; 565900, 4229600; 565900, 4229700; 566100, 4229700; 566100, 4229800; 566200, 4229800; 566200, 4229900; 565800, 4229900; 565800, 4230000; 565500, 4230000; 565500, 4230100; 565400, 4230100; 565400, 4230500; 565600, 4230500; 565600, 4230600.

Subunit B: lands bounded by: 4228400; 574100, 4228400; 574100, 4227900; 574300, 4227900; 574300, 4227800; 574500, 4227800; 574500, 4227700; 574600, 4227700; 574600, 4227300; 574700, 4227300; 574700, 4227000; 574800, 4227000; 574800, 4226800; 574900, 4226800; 574900, 4226600; 575000, 4226600; 575000, 4226400; 575100, 4226400; 575100, 4225800; 575200, 4225800; 575200, 4225700; 575300, 4225700; 575300, 4225400; 575400, 4225400; 575400, 4225100; 575500, 4225100; 575500, 4224800; 575600, 4224800; 575600, 4224400; 575700, 4224400; 575700, 4224300; 575800, 4224300; 575800, 4224200; 576200, 4224200; 576200, 4224300; 576600, 4224300; 576600, 4224400; 576900, 4224400; 576900, 4224300; 577000, 4224300; 577000, 4224200; 577100, 4224200; 577100, 4224000; 577200, 4224000; 577200, 4223800; 577300, 4223800; 577300, 4223600; 577400, 4223600; 577400, 4223500; 577300, 4223500; 577300, 4223300; 577100, 4223300; 577100, 4223200; 577000, 4223200; 577000, 4222700; 577100, 4222700; 577100, 4222600; 577200, 4222600; 577200, 4222500; 577400, 4222500; 577400, 4222400; 577800, 4222400; 577800, 4222100; 577900, 4222100; 577900, 4222000; 577800, 4222000; 577800, 4221100; 577900, 4221100; 577900, 4221000; 578000, 4221000; 578000, 4220800; 578100, 4220800; 578100, 4220600; 578200, 4220600; 578200, 4220200; 578300, 4220200; 578300, 4218800; 578400, 4218800; 578400, 4218600; 578500, 4218600; 578500, 4218300; 578600, 4218300; 578600, 4217700; 578500, 4217700; 578500, 4217200; 578400, 4217200; 578400, 4216800; 578300, 4216800; 578300, 4216400; 578200, 4216400; 578200, 4216200; 578100, 4216200; 578100, 4216000; 578000, 4216000; 578000, 4215900; 577900, 4215900; 577900, 4215800; 577800, 4215800; 577800, 4215600; 577700, 4215600; 577700, 4215400; 577600, 4215400; 577600, 4215300; 575800, 4215300; 575800, 4215500; 575700, 4215500; 575700, 4215600; 575600, 4215600; 575600, 4215800; 575500, 4215800; 575500, 4216100; 575100, 4216100; 575100, 4216000; 575300, 4216000; 575300, 4215300; 575000, 4215300; 575000, 4215400; 574700, 4215400; 574700, 4215300; 574500, 4215300; 574500, 4215400; 574000, 4215400; 574000, 4215500; 573900, 4215500; 573900, 4215600; 573800, 4215600; 573800, 4215700; 573600, 4215700; 573600, 4215800; 573300, 4215800; 573300, 4215900; 573100, 4215900; 573100, 4216000; 572900, 4216000; 572900, 4216100; 572700, 4216100; 572700, 4216200; 572600, 4216200; 572600, 4216600; 572500, 4216600; 572500, 4216800; 572300, 4216800; 572300, 4216700; 571500, 4216700; 571500, 4217300; 571200, 4217300; 571200, 4217600; 571300, 4217600; 571300, 4217700; 571400, 4217700; 571400, 4218000; 571100, 4218000; 571100, 4218100; 571000, 4218100; 571000, 4218200; 570900, 4218200; 570900, 4218300; 570800, 4218300; 570800, 4218400; 570700, 4218400; 570700, 4218500; 570600, 4218500; 570600, 4218600; 570500, 4218600; 570500, 4219400; 569900, 4219400; 569900, 4219600; 569800, 4219600; 569800, 4219900; 569700, 4219900; 569700, 4220200; 569800, 4220200; 569800, 4220300; 570700, 4220300; 570700, 4220600; 570600, 4220600; 570600, 4220700; 570500, 4220700; 570500, 4220800; 570400, 4220800; 570400, 4220900; 570300, 4220900; 570300, 4221000; 570200, 4221000; 570200, 4221100; 570000, 4221100; 570000, 4221200; 569900, 4221200; 569900, 4221300; 569400, 4221300; 569400, 4221400; 568500, 4221400; 568500, 4221900; 568600, 4221900; 568600, 4222200; 568700, 4222200; 568700, 4223000; 568800, 4223000; 568800, 4223200; 568900, 4223200; 568900, 4223400; 569000, 4223400; 569000, 4223500; 569100, 4223500; 569100, 4223700; 569200, 4223700; 569200, 4224000; 569300, 4224000; 569300, 4224100; 569400, 4224100; 569400, 4224200; 569500, 4224200; 569500, 4224300; 569600, 4224300; 569600, 4224400; 569700, 4224400; 569700, 4224500; 569800, 4224500; 569800, 4224600; 569900, 4224600; 569900, 4224700; 570000, 4224700; 570000, 4224800; 570100, 4224800; 570100, 4224900; 570200, 4224900; 570200, 4225000; 570400, 4225000; 570400, 4225100; 570500, 4225100; 570500, 4225200; 570600, 4225200; 570600, 4225300; 570700, 4225300; 570700, 4225400; 570800, 4225400; 570800, 4225600; 570900, 4225600; 570900, 4225700; 571000, 4225700; 571000, 4225800; 571100, 4225800; 571100, 4225900; 571200, 4225900; 571200, 4226000; 571300, 4226000; 571300, 4226100; 571400, 4226100; 571400, 4226200; 571500, 4226200; 571500, 4226300; 571600, 4226300; 571600, 4226400; 571700, 4226400; 571700, 4226500; 571800, 4226500; 571800, 4226600; 571900, 4226600; 571900, 4226700; 572200, 4226700; 572200, 4226800; 572500, 4226800; 572500, 4226900; 572600, 4226900; 572600, 4227000; 572700, 4227000; 572700, 4227100; 572800, 4227100; 572800, 4227200; 572900, 4227200; 572900, 4227400; 573000, 4227400; 573000, 4227500; 573100, 4227500; 573100, 4227600; 573200, 4227600; 573200, 4227800; 573300, 4227800; 573300, 4227900; 573400, 4227900; 573400, 4228000; 573500, 4228000; 573500, 4228100; 573600, 4228100; 573600, 4228200; 573700, 4228200; 573700, 4228300; 573800, 4228300; 573800, 4228400.

Excluding lands bounded by: 572000, 4224600; 571600, 4224600; 571600, 4224500; 571500, 4224500; 571500, 4224400; 571300, 4224400; 571300, 4224300; 571100, 4224300; 571100, 4224000; 571300, 4224000; 571300, 4223700; 571400, 4223700; 571400, 4223500; 571500, 4223500; 571500, 4223300; 571600, 4223300; 571600, 4223100; 571800, 4223100;

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Excluding lands bounded by: 572600, 4223800; 572500, 4223800; 572500, 4223700; 572600, 4223700; 572600, 4223800.

Excluding lands bounded by: 574400, 4216900; 574100, 4216900; 574100, 4216800; 574000, 4216800; 574000, 4216700; 573900, 4216700; 573900, 4216400; 574100, 4216400; 574100, 4216300; 574300, 4216300; 574300, 4216400; 574400, 4216400; 574400, 4216500; 574500, 4216500; 574500, 4216800; 574400, 4216800; 574400, 4216900.

Excluding lands bounded by: 576300, 4216300; 575900, 4216300; 575900, 4216200; 576000, 4216200; 576000, 4216000; 576100, 4216000; 576100, 4215800; 576200, 4215800; 576200, 4215900; 576300, 4215900; 576300, 4216300.

Unit 12. Point Reyes: Marin and Sonoma Counties, California. From USGS 1:24,000 quadrangle maps Bolinas, Cotati, Double Point, Drakes Bay, Inverness, Novato, Petaluma, Point Bonita, Point Reyes NE, San Francisco North, San Geronimo, San Rafael, Tomales, Two Rock, Valley Ford, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 502000, 4235700; 502100, 4235700; 502100, 4235600; 502200, 4235600; 502200, 4235500; 502400, 4235500; 502400, 4235400; 502500, 4235400; 502500, 4235300; 502700, 4235300; 502700, 4235100; 502800, 4235100; 502800, 4234800; 502900, 4234800; 502900, 4234700; 503100, 4234700; 503100, 4234600; 503300, 4234600; 503300, 4234300; 503400, 4234300; 503400, 4234200; 503700, 4234200; 503700, 4234100; 503800, 4234100; 503800, 4234000; 504000, 4234000; 504000, 4234100; 504500, 4234100; 504500, 4234000; 504600, 4234000; 504600, 4233900; 504700, 4233900; 504700, 4233800; 504800, 4233800; 504800, 4233600; 504900, 4233600; 504900, 4233500; 505000, 4233500; 505000, 4233300; 505100, 4233300; 505100, 4233200; 505700, 4233200; 505700, 4233100; 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Excluding lands bounded by: 526100, 4208600; 526100, 4208500; 526000, 4208500; 526000, 4208400; 525800, 4208400; 525800, 4208100; 526200, 4208100; 526200, 4208000; 526300, 4208000; 526300, 4207900; 525900, 4207900; 525900, 4207300; 526000, 4207300; 526000, 4207100; 526300, 4207100; 526300, 4207200; 526400, 4207200; 526400, 4207300; 526500, 4207300; 526500, 4207400; 527000, 4207400; 527000, 4207300; 527500, 4207300; 527500, 4207500; 527700, 4207500; 527700, 4207600; 528700, 4207600; 528700, 4207500; 528900, 4207500; 528900, 4207400; 529000, 4207400; 529000, 4207300; 529600, 4207300; 529600, 4207200; 530200, 4207200; 530200, 4207300; 531000, 4207300; 531000, 4207200; 531100, 4207200; 531100, 4207100; 531400, 4207100; 531400, 4207000; 531500, 4207000; 531500, 4206800; 531400, 4206800; 531400, 4206700; 531300, 4206700; 531300, 4206600; 531200, 4206600; 531200, 4206300; 531400, 4206300; 531400, 4206200; 531600, 4206200; 531600, 4206000; 531900, 4206000; 531900, 4206200; 532000, 4206200; 532000, 4206400; 532200, 4206400; 532200, 4206500; 532300, 4206500; 532300, 4206700; 532400, 4206700; 532400, 4206900; 532300, 4206900; 532300, 4207000; 532200, 4207000; 532200, 4207100; 532000, 4207100; 532000,
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Unit 13. Tiburon Peninsula: Marin County, California. From USGS 1:24,000 quadrangle maps San Quentin, and San Rafael, lands bounded by the following UTM Zone 10 NAD83 coordinates (E, N): 544400, 4197200; 544500, 4197200; 544500, 4197100; 544600, 4197100; 544600, 4196900; 544800, 4196900; 544800, 4197100; 545100, 4197100; 545100, 4196500; 545500, 4196500; 545500, 4196400; 545600, 4196400; 545600, 4196300; 545700, 4196300; 545700, 4196200; 545800, 4196200; 545800, 4196100; 545500, 4196100; 545500, 4195800; 545600, 4195800; 545600, 4195600; 545800, 4195600; 545800, 4195400; 545600, 4195400; 545600, 4195000; 545800, 4195000; 545800, 4195200; 546200, 4195200; 546200, 4194900; 546600, 4194900; 546600, 4194800; 546700, 4194800; 546700, 4194700; 546900, 4194700; 546900, 4194600; 547200, 4194600; 547200, 4194500; 547300, 4194500; 547300, 4194300; 547400, 4194300; 547400, 4194200; 547600, 4194200; 547600, 4194100; 547900, 4194100; 547900, 4194200; 548000, 4194200; 548000, 4194100; 548300, 4194100; 548300, 4194200; 548400, 4194200; 548400, 4194100; 548500, 4194100; 548500, 4193800; 548600, 4193800; 548600, 4193700; 548700, 4193700; 548700, 4193500; 548800, 4193500; 548800, 4193300; 548900, 4193300; 548900, 4193200; 549000, 4193200; 549000, 4193100; 549200, 4193100; 549200, 4192900; 549300, 4192900;

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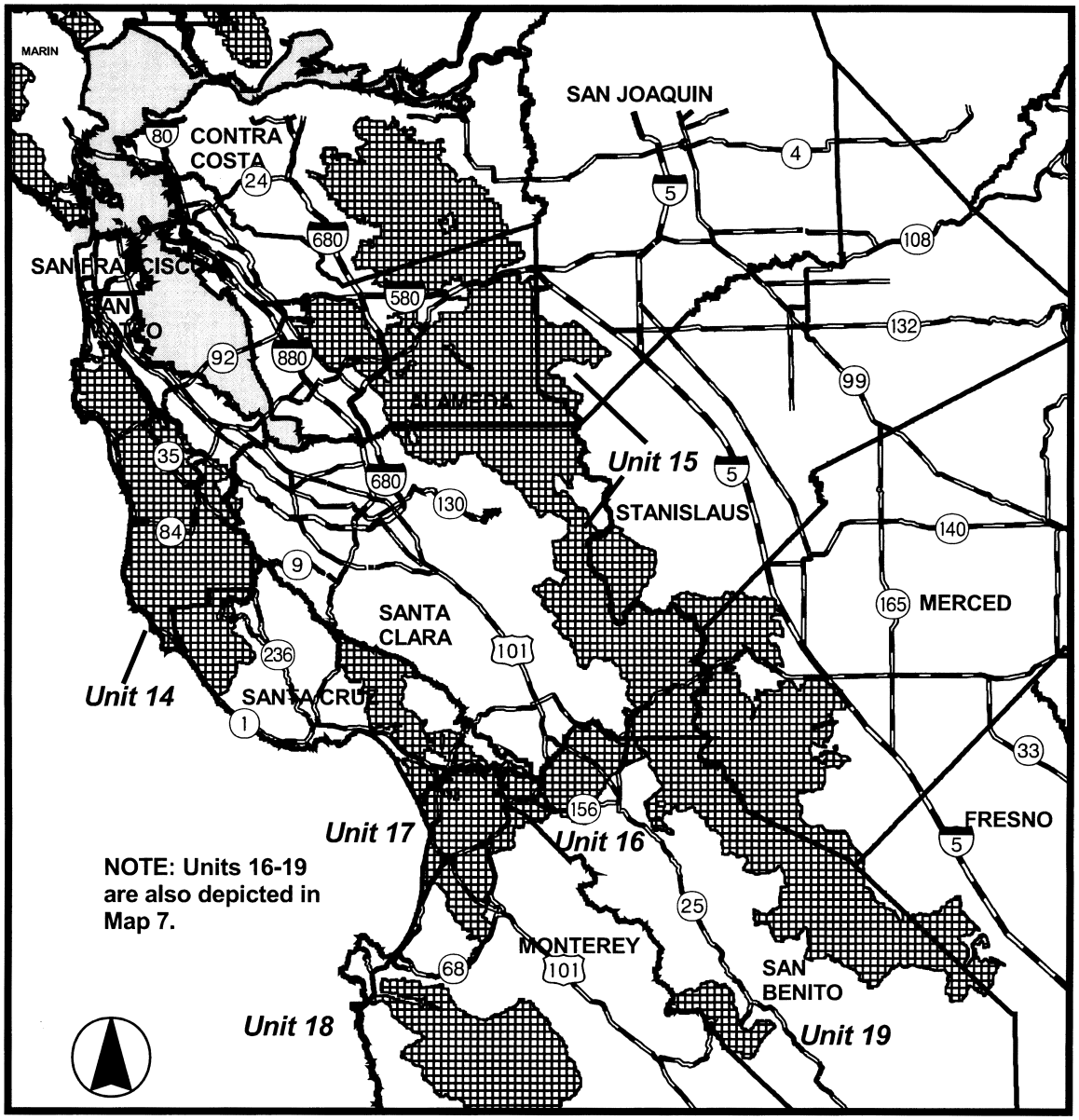
BILLING CODE 4310–55–P



Map 6 - Critical Habitat Units 14 and 15

California Red-Legged Frog

10 0 10 20 Miles

1:1334334

BILLING CODE 4310–55–C

Unit 14. San Mateo-Northern Santa Cruz: San Mateo, Santa Clara, and Santa Cruz counties, California. From USGS 1:24,000 quadrangle maps Ano Nuevo, Big Basin, Davenport, Franklin Point, Half Moon Bay, La Honda, Mindego Hill, Montara Mountain, Palo Alto, Pigeon Point, San Francisco South, San Gregorio, San Mateo, and Woodside, lands bounded by the following UTM Zone 10 NAD83 coordinates (E, N): 546900, 4164700; 547200, 4164700; 547200, 4164600; 548100, 4164600; 548100, 4163800; 548600, 4163800; 548600, 4164100; 548700, 4164100; 548700, 4164200; 548800, 4164200; 548800, 4164000; 548900, 4164000; 548900, 4163900; 549000, 4163900; 549000, 4163800; 549100, 4163800; 549100, 4163600; 549300, 4163600; 549300, 4163500; 549400, 4163500; 549400, 4163400; 549500, 4163400; 549500, 4163300; 549600, 4163300; 549600, 4163100; 549700, 4163100; 549700, 4162900; 549800, 4162900; 549800, 4162700; 549700, 4162700; 549700, 4162800; 549600, 4162800; 549600, 4162900; 549500, 4162900; 549500, 4163100; 549300, 4163100; 549300, 4162900; 549400, 4162900; 549400, 4162800; 549500, 4162800; 549500, 4162600; 549600, 4162600; 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Unit 15. East Bay-Diablo Range: Contra Costa, Alameda, San Joaquin, Santa Clara, Stanislaus, San Benito, Merced, and Fresno counties, California. From USGS 1:24,000 quadrangle maps Altamont, Antioch South, Brentwood, Byron Hot Springs, Calaveras Reservoir, Cedar Mtn., Cerro Colorado, Cherry Peak, Chounet Ranch, Clayton, Clifton Court Forebay, Crevison Peak, Diablo, Dublin, Eylar Mtn., Gilroy Hot Springs, Hayward, Howard Ranch, Isabel Valley, La Costa Valley, Livermore, Llanada, Lone Tree Creek, Los Banos Valley, Mariposa Peak, Mendenhall Springs, Mercey Hot Springs, Midway, Mississippi Creek, Monocline Ridge, Mt. Boardman, Mt. Day, Mt. Sizer, Mt. Stakes, Mustang Peak, Newark, Niles, Ortigalita Peak, Ortigalita Peak Nw, Pacheco Pass, Pacheco Peak, Panoche, Panoche Pass, Quien Sabe Valley, Ruby Canyon, San

Benito, San Luis Dam, Tassajara, Three Sisters, Tracy, Tres Pinos, Tumey Hills, Volta, Walnut Creek, Wilcox Ridge, lands bounded by the following UTM zone 10 NAD83 Coordinates (E,N): 596000, 4206100; 596100, 4206100; 596100, 4205900; 596400, 4205900; 596400, 4205500; 596700, 4205500; 596700, 4205400; 597000, 4205400; 597000, 4205300; 599300, 4205300; 599300, 4205100; 599400, 4205100; 599400, 4204900; 599500, 4204900; 599500, 4204700; 599600, 4204700; 599600, 4203900; 599900, 4203900; 599900, 4204100; 600000, 4204100; 600000, 4204200; 600200, 4204200; 600200, 4204400; 600300, 4204400; 600300, 4204500; 600400, 4204500; 600400, 4204700; 600500, 4204700; 600500, 4204900; 600600, 4204900; 600600, 4205100; 600700, 4205100; 600700, 4205200; 600800, 4205200; 600800, 4205500; 600900, 4205500; 600900, 4205900; 600800, 4205900; 600800, 4206100; 600900, 4206100; 600900, 4206000; 601000, 4206000; 601000, 4205900; 601100, 4205900;
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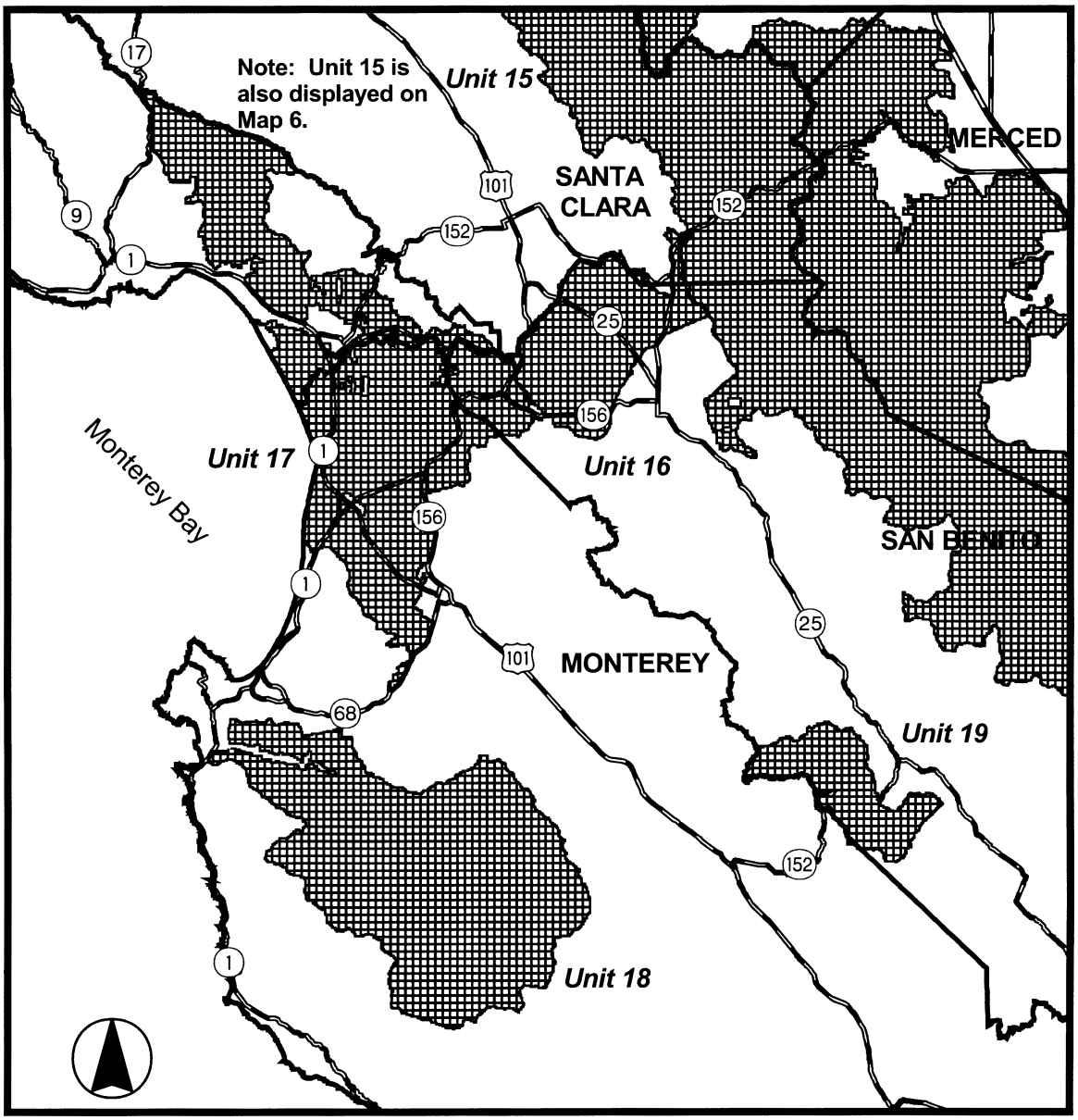
Excluding lands bounded by: 649700, 4080000; 650900, 4080000; 650900, 4079100; 649700, 4079100; 649700, 4080000.

Excluding lands bounded by: 649200, 4077000; 649900, 4077000; 649900, 4076500; 649000, 4076500; 649000, 4076800; 649200, 4076800; 649200, 4077000.

BILLING CODE 4310–55–P



Map 7 - Critical Habitat
Units 16, 17, 18, 19
California Red-Legged Frog

7 0 7 14 Miles

1:739125

BILLING CODE 4310–55–P

Unit 16. Pajaro River: Santa Clara and San Benito counties, California. From USGS 1:24,000 quadrangle maps Chittenden, Gilroy Hot Springs, Hollister, Pacheco Peak, San Felipe, San Juan Bautista, Three Sisters, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 643500, 4097300; 643600, 4097300; 643600, 4097200; 644000, 4097200; 644000, 4097100; 644100, 4097100; 644100, 4097000; 644200, 4097000; 644200, 4096900; 644300, 4096900; 644300, 4096800; 644400, 4096800; 644400, 4096700; 644900, 4096700; 644900, 4096800; 645300, 4096800; 645300, 4096900; 645800, 4096900; 645800, 4096800; 645900, 4096800; 645900, 4096600; 645800, 4096600; 645800, 4096500; 645700, 4096500; 645700, 4096400; 645600, 4096400; 645600, 4096300; 645500, 4096300; 645500, 4096200; 645400, 4096200; 645400, 4096100; 645300, 4096100; 645300, 4096000; 645100, 4096000; 645100, 4095900; 645000, 4095900; 645000, 4095800; 644900, 4095800; 644900, 4095700; 644800, 4095700; 644800, 4095500; 644700, 4095500; 644700, 4095000; 644800, 4095000; 644800, 4094000; 644900, 4094000; 644900, 4093800; 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Unit 17. Elkhorn Slough-Salinas River: Santa Cruz, Monterey, and San Benito counties, California. From USGS 1:24,000 quadrangle maps Chittenden, Laurel, Los Gatos, Loma Prieta, Marina, Moss Landing, Prunedale, Salinas, San Juan Bautista, Soquel, Spreckels, Watsonville East, Watsonville West, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): Subunit A 589500, 4111300; 590500, 4111300; 590500, 4111200; 590600, 4111200; 590600, 4111100; 591200, 4111100; 591200, 4111000; 591300, 4111000; 591300, 4110900; 591400, 4110900; 591400, 4110800; 591500, 4110800; 591500, 4110500; 591600, 4110500; 591600, 4110400; 591700, 4110400; 591700, 4110300; 591900, 4110300; 591900, 4110200; 592100, 4110200; 592100, 4110100; 592200, 4110100; 592200, 4110000; 592300, 4110000; 592300, 4109900; 592600, 4109900; 592600, 4109700; 592700, 4109700; 592700, 4109600; 593000, 4109600; 593000, 4109700; 593100, 4109700; 593100, 4109600; 593200, 4109600; 593200, 4109500; 593600, 4109500; 593600, 4109400; 593700, 4109400; 593700, 4109300; 593900, 4109300; 593900, 4109200; 594200, 4109200; 594200, 4109100; 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Subunit B: lands bounded by: 617200, 4053200; 617300, 4053200; 617300, 4053000;

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Excluding lands bounded by: 607100, 4092300; 607100, 4091700; 607300, 4091700; 607300, 4091200; 607500, 4091200; 607500, 4090900; 608100, 4090900; 608100, 4091100; 608200, 4091100; 608200, 4091300; 608100, 4091300; 608100, 4091400; 607600, 4091400; 607600, 4091600; 607700, 4091600; 607700, 4092000; 607400, 4092000; 607400, 4092300; 607100, 4092300.

Excluding lands bounded by: 609900, 4092200; 609900, 4090400; 610400, 4090400; 610400, 4092200; 609900, 4092200.

Excluding lands bounded by: 608500, 4090900; 608500, 4090600; 608800, 4090600; 608800, 4090900; 608500, 4090900.

Excluding lands bounded by: 612800, 4090700; 612800, 4090600; 612600, 4090600; 612600, 4090500; 612500, 4090500; 612500, 4090400; 612600, 4090400; 612600, 4090100; 612800, 4090100; 612800, 4090200; 612900, 4090200; 612900, 4090300; 613000, 4090300; 613000, 4090500; 613100, 4090500; 613100, 4090700; 612800, 4090700.

Excluding lands bounded by: 609900, 4090200; 609900, 4089800; 610300, 4089800; 610300, 4090200; 609900, 4090200.

Excluding lands bounded by: 612500, 4088700; 612500, 4088500; 612400, 4088500; 612400, 4088400; 612200, 4088400; 612200, 4088300; 612400, 4088300; 612400, 4088200; 612500, 4088200; 612500, 4088100; 612700, 4088100; 612700, 4087700; 612900, 4087700; 612900, 4088300; 612600, 4088300; 612600, 4088500; 612700, 4088500; 612700, 4088700; 612500, 4088700.

Excluding lands bounded by: 611400, 4085200; 611400, 4085100; 611300, 4085100; 611300, 4085000; 611200, 4085000; 611200, 4084600; 611300, 4084600; 611300, 4084100; 611400, 4084100; 611400, 4084000; 611500, 4084000; 611500, 4083600; 611700, 4083600; 611700, 4083700; 611900, 4083700; 611900, 4083800; 612000, 4083800; 612000, 4084200; 611700, 4084200; 611700, 4085200; 611400, 4085200

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Excluding lands bounded by: 621600, 4083300; 621600, 4083100; 622100, 4083100; 622100, 4083300; 621600, 4083300

Excluding lands bounded by: 611000, 4082200; 611000, 4082000; 611100, 4082000; 611100, 4081800; 611200, 4081800; 611200, 4081600; 611400, 4081600; 611400, 4080800; 611300, 4080800; 611300, 4080500; 611700, 4080500; 611700, 4081000; 611800, 4081000; 611800, 4081600; 611700, 4081600; 611700, 4081700; 611500, 4081700; 611500, 4082200; 611000, 4082200

Excluding lands bounded by: 612600, 4082200; 612600, 4080800; 612400, 4080800; 612400, 4080300; 613100, 4080300; 613100, 4081400; 613200, 4081400; 613200, 4082100; 613100, 4082100; 613100, 4082200; 612600, 4082200

Excluding lands bounded by: 610300, 4081600; 610300, 4081000; 610600, 4081000; 610600, 4081600; 610300, 4081600

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Unit 18. Carmel River: Monterey county, California. From USGS 1:24,000 quadrangle maps Big Sur, Carmel Valley, Chew's Ridge, Chualar, Monterey, Mt. Carmel, Palo Escrito Peak, Rana Creek, Seaside, Spreckels, Sycamore Flat, Ventana Cones, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 603000, 4047300; 603200, 4047300; 603200, 4047200; 603300, 4047200; 603300, 4047000; 603400, 4047000; 603400, 4046800; 603500, 4046800; 603500, 4046700; 603600, 4046700; 603600, 4046600; 604000, 4046600; 604000, 4046700; 604300, 4046700; 604300, 4046800; 604600, 4046800; 604600, 4046900; 605000, 4046900; 605000, 4046800; 605500, 4046800; 605500, 4046700; 605600, 4046700; 605600, 4046800; 605900, 4046800; 605900, 4046700; 606000, 4046700; 606000, 4046500; 606100, 4046500; 606100, 4046400; 606200, 4046400; 606200, 4046200; 606300, 4046200; 606300, 4045900; 606400, 4045900; 606400, 4045600; 606500, 4045600; 606500, 4045500; 606800, 4045500; 606800, 4045600; 607400, 4045600; 607400, 4045700; 608300, 4045700; 608300, 4045800; 608600, 4045800; 608600, 4045900; 609000, 4045900; 609000, 4046000; 609600, 4046000; 609600, 4046100; 609900, 4046100; 609900, 4046200; 610300, 4046200; 610300, 4046100; 610400, 4046100; 610400, 4045400; 611400, 4045400; 611400, 4045200; 611500, 4045200; 611500, 4044200; 611600, 4044200; 611600, 4044000; 611700, 4044000; 611700, 4043900; 611800, 4043900; 611800, 4043700; 611900, 4043700; 611900, 4043300; 612000, 4043300; 612000, 4043100; 612200, 4043100; 612200, 4043000; 612300, 4043000; 612300, 4042900; 612500, 4042900; 612500, 4042500; 612600, 4042500; 612600, 4042400; 612700, 4042400; 612700, 4042300; 612800, 4042300; 612800, 4041800; 612900, 4041800; 612900, 4041700; 613400, 4041700; 613400, 4041600; 613600, 4041600; 613600, 4041300; 614200, 4041300; 614200, 4041200; 614300, 4041200; 614300, 4041100; 614600, 4041100; 614600, 4040800; 614700, 4040800; 614700, 4040700; 615000, 4040700; 615000, 4040500; 615300, 4040500; 615300, 4040400; 615400, 4040400; 615400, 4040300; 615600, 4040300; 615600, 4040200; 616600, 4040200; 616600, 4040100; 616700, 4040100; 616700, 4040000; 616800, 4040000; 616800, 4039900; 616900, 4039900; 616900, 4039800; 617100, 4039800; 617100, 4039700; 617900, 4039700; 617900, 4039600; 618500, 4039600; 618500, 4039700; 618600, 4039700; 618600, 4039800; 618700, 4039800; 618700, 4039900; 619100, 4039900; 619100, 4040000; 619200, 4040000; 619200, 4040100; 619300, 4040100; 619300, 4040200; 619400, 4040200; 619400, 4040300; 619600, 4040300; 619600, 4040400; 619800, 4040400; 619800, 4040500; 619900, 4040500; 619900, 4040700; 620500, 4040700; 620500, 4040600; 621000, 4040600; 621000, 4040800; 621100, 4040800; 621100, 4040900; 621300, 4040900; 621300, 4041000; 621600, 4041000; 621600, 4041100; 621900, 4041100; 621900, 4041400; 622000, 4041400; 622000, 4041500; 622300, 4041500; 622300, 4041600; 622400, 4041600; 622400, 4041700; 622500, 4041700; 622500, 4041800; 622700, 4041800; 622700, 4041900; 623200, 4041900; 623200, 4042000; 623400, 4042000; 623400, 4042100; 623500, 4042100; 623500, 4042200; 623800, 4042200; 623800, 4042300; 623900, 4042300; 623900, 4042500; 624000, 4042500; 624000, 4042600; 624100, 4042600; 624100, 4042800; 624200, 4042800; 624200, 4043000; 624400, 4043000; 624400, 4043100; 624500, 4043100; 624500, 4043300; 624300, 4043300; 624300, 4043400; 624400, 4043400; 624400, 4043500; 625200, 4043500; 625200, 4042900; 625400, 4042900; 625400, 4042800; 625700, 4042800; 625700, 4042900; 625900, 4042900; 625900, 4043000; 626200, 4043000; 626200, 4043100; 626400, 4043100; 626400, 4043000; 626500, 4043000; 626500, 4042800; 626600, 4042800; 626600, 4042700; 626900, 4042700; 626900, 4042600; 627000, 4042600; 627000, 4042200; 627100, 4042200; 627100, 4042000; 627200, 4042000; 627200, 4041900; 627300, 4041900; 627300, 4041800; 627500, 4041800; 627500, 4041700; 627700, 4041700; 627700, 4041600; 627800, 4041600; 627800, 4041300; 627900, 4041300; 627900, 4041000; 628100, 4041000; 628100, 4040800; 628200, 4040800; 628200, 4040700; 628300, 4040700; 628300, 4040600; 628400, 4040600; 628400, 4040500; 628500, 4040500; 628500, 4040300; 628600, 4040300; 628600, 4040200; 628700, 4040200; 628700, 4040100; 629200, 4040100; 629200, 4040000; 629300, 4040000; 629300,

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Unit 19. The Pinnacles: San Benito and Monterey counties, California. From USGS 1:24,000 quadrangle maps Bickmore Canyon, Mount Joohnson, North Chalone Peak, Topo Valley, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 659400, 4046900; 659800, 4046900; 659800, 4046800; 659900, 4046800; 659900, 4046700; 660000, 4046700; 660000, 4046600; 660200, 4046600; 660200, 4046500; 660400, 4046500; 660400, 4046400; 660600, 4046400; 660600, 4046300; 660700, 4046300; 660700, 4046100; 660900, 4046100; 660900, 4046000; 661300, 4046000; 661300, 4046100; 661500, 4046100; 661500, 4046200; 662000, 4046200; 662000, 4046300; 662100, 4046300; 662100, 4046200; 662200, 4046200; 662200, 4045900; 662300, 4045900; 662300, 4045800; 662400, 4045800; 662400, 4045600; 662600, 4045600; 662600, 4045500; 662900, 4045500; 662900, 4045400; 663000, 4045400; 663000, 4045000; 663200, 4045000; 663200, 4044900; 663300, 4044900; 663300, 4044800; 663400, 4044800; 663400, 4044600; 663500, 4044600; 663500, 4044500; 663700, 4044500; 663700, 4043400; 663800, 4043400; 663800, 4043100; 663700, 4043100; 663700, 4043000; 663600, 4043000; 663600, 4042900; 663500, 4042900; 663500, 4042600; 663600, 4042600; 663600, 4042500; 663700, 4042500; 663700, 4042100; 663800, 4042100; 663800, 4042000; 663900, 4042000; 663900, 4041900; 664100, 4041900; 664100, 4041800; 664200, 4041800; 664200, 4041500; 664300, 4041500; 664300, 4041000; 664400, 4041000; 664400, 4040800; 664500, 4040800; 664500, 4039600; 664700, 4039600; 664700, 4039500; 664800, 4039500; 664800, 4039300; 664900, 4039300; 664900, 4039100; 665000, 4039100; 665000, 4038700; 665100, 4038700; 665100, 4038300; 665300, 4038300; 665300, 4038200; 665400, 4038200; 665400, 4038100; 665700, 4038100; 665700, 4038000; 665900, 4038000; 665900, 4037900; 666000, 4037900; 666000, 4037800; 666300, 4037800; 666300, 4037700; 666800, 4037700; 666800, 4037900; 666900, 4037900; 666900, 4038100; 667100, 4038100; 667100, 4038200; 667300, 4038200; 667300, 4038400; 667400, 4038400; 667400, 4038700; 667500, 4038700; 667500, 4038800; 667600, 4038800; 667600, 4038900; 667700, 4038900; 667700, 4039000; 667800, 4039000; 667800, 4039200; 667900, 4039200; 667900, 4039400; 668000, 4039400; 668000, 4039500; 668100, 4039500; 668100, 4039600; 668200, 4039600; 668200, 4039500; 668300, 4039500; 668300, 4039400; 668600, 4039400; 668600, 4039500; 668900, 4039500; 668900, 4039600; 669000, 4039600; 669000, 4039500; 669100, 4039500; 669100, 4039400; 669700, 4039400; 669700, 4039600; 670100, 4039600; 670100, 4039500; 670400, 4039500; 670400, 4039400; 670500, 4039400; 670500, 4039300; 670700, 4039300; 670700, 4039100; 670800, 4039100; 670800, 4039000; 671100, 4039000; 671100, 4038700; 671200, 4038700; 671200, 4038600; 671300, 4038600; 671300, 4038500; 671400, 4038500; 671400, 4038400; 671200, 4038400; 671200, 4038300; 671100, 4038300; 671100, 4038200; 671000, 4038200; 671000, 4038100; 670900, 4038100; 670900, 4038000; 670800, 4038000; 670800, 4037900; 670700, 4037900; 670700, 4037800; 670600, 4037800; 670600, 4037700; 670500, 4037700; 670500, 4037600; 670400, 4037600; 670400, 4037400; 670200, 4037400; 670200, 4037300; 670100, 4037300; 670100, 4037200; 670000, 4037200; 670000, 4037100; 669900, 4037100; 669900, 4037000; 669800, 4037000; 669800, 4036900; 669700, 4036900; 669700, 4036800; 669500, 4036800; 669500, 4036700; 669400, 4036700; 669400, 4036500; 669300, 4036500; 669300, 4036400; 669200, 4036400; 669200, 4036300; 669100, 4036300; 669100, 4036000; 669000, 4036000; 669000, 4035800; 668900, 4035800; 668900, 4035700; 668800, 4035700; 668800, 4035600; 668700, 4035600; 668700, 4035500; 668500, 4035500; 668500, 4035000; 668400, 4035000; 668400, 4034900; 668300, 4034900; 668300, 4034800; 668200, 4034800; 668200, 4034700; 668100, 4034700; 668100, 4034300; 668200, 4034300; 668200, 4034000; 667900, 4034000; 667900, 4033900; 667600, 4033900; 667600, 4033600; 667700, 4033600; 667700, 4033400; 667600, 4033400; 667600, 4033300; 667500, 4033300; 667500, 4033100; 667400, 4033100; 667400, 4032900; 667100, 4032900; 667100, 4032800; 667000, 4032800; 667000, 4032700; 666800, 4032700; 666800, 4032600; 666700, 4032600; 666700, 4032500; 666600, 4032500; 666600, 4032600; 665600, 4032600; 665600, 4032700; 665500, 4032700; 665500, 4032900; 665400, 4032900; 665400, 4033400; 665300, 4033400; 665300,

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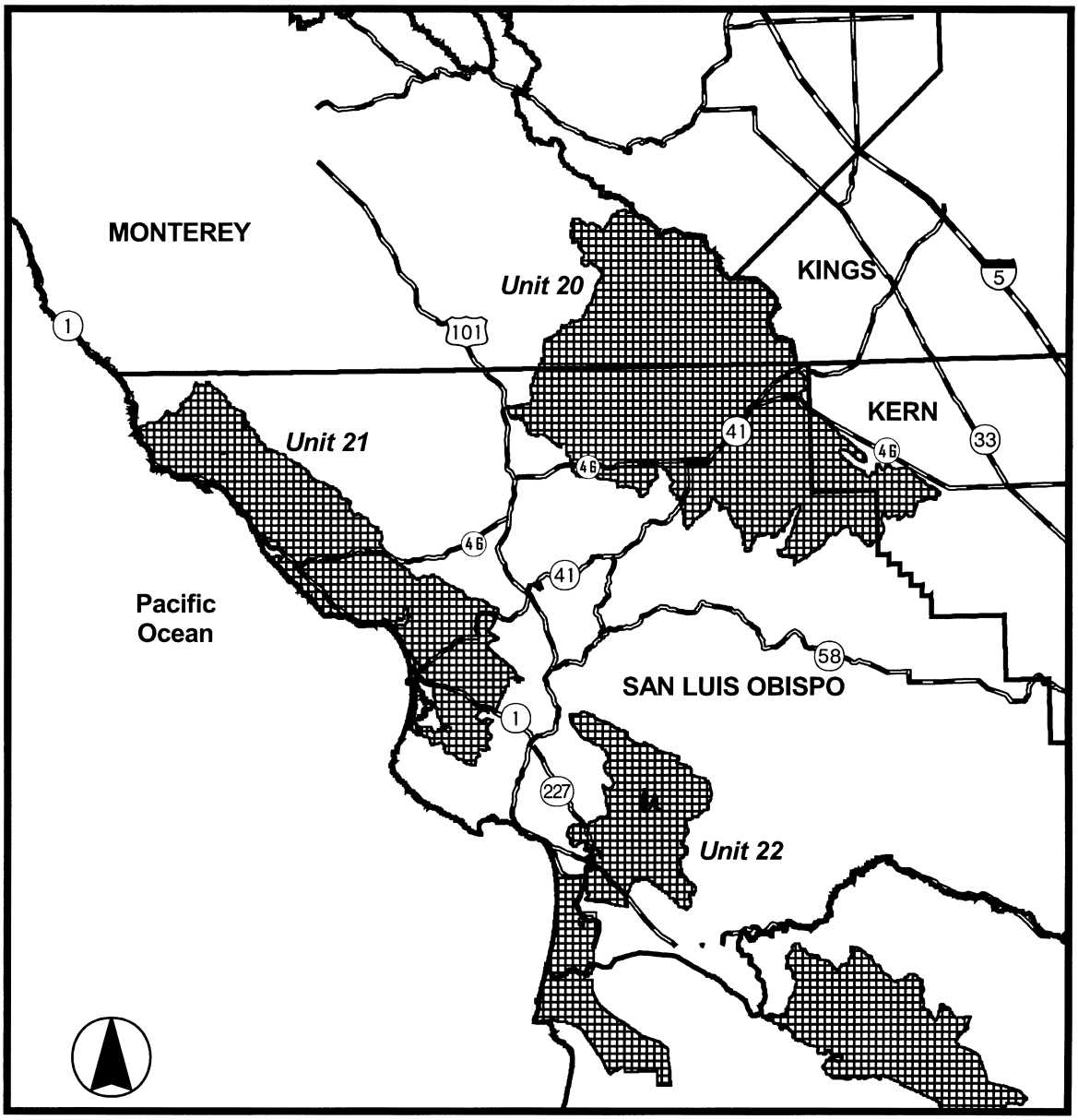

Map 8 - Critical Habitat
Units 20, 21, 22
California Red-Legged Frog

8 0 8 16 Miles

1:1091758

BILLING CODE 4310–55–P

Unit 20. Estrella River/Cholame Creek: Monterey, San Luis Obispo, and Kern counties, California. From USGS 1:24,000 quadrangle maps Camatta Canyon, Cholame Hills, Curry Mountain, Estrella, Garza Peak, Holland Canyon, Orchard Peak, Packwood Creek, Parkfield, Paso Robles, Ranchito Canyon, San Miguel, Sawtooth Ridge, Shandon, Shedd Canyon, Smith Mountain, Stockdale Mtn, Tent Hills, and The Dark Hole, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): Subunit A (West) 726100, 3987300; 726200, 3987300; 726200, 3987200; 726300, 3987200; 726300, 3987100; 726400, 3987100; 726400, 3987000; 726600, 3987000; 726600, 3986900; 727500, 3986900; 727500, 3986800; 727700, 3986800; 727700, 3986600; 727800, 3986600; 727800, 3986500; 728000, 3986500; 728000, 3986300; 728100, 3986300; 728100, 3986200; 728400, 3986200; 728400, 3986100; 729000, 3986100; 729000, 3986000; 729200, 3986000; 729200, 3985900; 729300, 3985900; 729300, 3985800; 729500, 3985800; 729500, 3985700; 729800, 3985700; 729800, 3985600; 729900, 3985600; 729900, 3985200; 730100, 3985200; 730100, 3985100; 730200, 3985100; 730200, 3985000; 730300, 3985000; 730300, 3984900; 730400, 3984900; 730400, 3984800; 730600, 3984800; 730600, 3984700;
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Excluding lands bounded by: 719200, 3948900; 719200, 3949700; 718400, 3949700; 718400, 3948900; 719200, 3948900.

Excluding lands bounded by: 719200, 3948900; 719200, 3948100; 720000, 3948100; 720000, 3948900; 719200, 3948900.

Subunit B (East): lands bounded by the following UTM zone 11 NAD83 coordinates (E, N): 228200, 3945800; 228700, 3945800; 228700, 3945700; 229000, 3945700; 229000, 3945500; 229100, 3945500; 229100, 3945400; 229200, 3945400; 229200, 3945300; 229300, 3945300; 229300, 3945200; 229400, 3945200; 229400, 3945100; 229600, 3945100; 229600, 3945000; 229700, 3945000; 229700, 3944900; 229800, 3944900; 229800, 3944800; 230000, 3944800; 230000, 3944700; 230100, 3944700; 230100, 3944500; 230000, 3944500; 230000, 3944300; 229900, 3944300; 229900, 3944200; 229700, 3944200; 229700, 3944100; 229400, 3944100; 229400, 3943800; 229300, 3943800; 229300, 3943600; 229100, 3943600; 229100, 3943700; 229000, 3943700; 229000, 3943800; 228900, 3943800; 228900, 3943900; 228500, 3943900; 228500, 3943800; 228400, 3943800; 228400, 3943900; 228200, 3943900; 228200, 3945800.

Unit 21. San Simeon-Morro Bay: San Luis Obispo County, California. From USGS 1:24,000 quadrangle maps Atascadero, Burnett Peak, Cambria, Cayucos, Cypress Mountain, Lime Mountain, Morro Bay North, Morro Bay South, Pebblestone Shut-In, Pico Creek, Piedras Blancas, San Luis Obispo, San Simeon, York Mountain, land bounded by the following UTM zone 10 NAD83 coordinates (E,N): 663300, 3961300; 663700, 3961300; 663700, 3961200; 663800, 3961200; 663800, 3961000; 663900, 3961000; 663900, 3960900; 664000, 3960900; 664000, 3960800; 664100, 3960800; 664100, 3960700; 664200, 3960700; 664200, 3960600; 664300, 3960600; 664300, 3960500; 664400, 3960500; 664400, 3960400; 664500, 3960400; 664500, 3960300; 664800, 3960300; 664800, 3960200; 665000, 3960200; 665000, 3960000; 665200, 3960000; 665200, 3959900; 665400, 3959900; 665400, 3959800; 665500, 3959800; 665500, 3959700; 665600, 3959700; 665600, 3959600; 665700, 3959600; 665700, 3959500; 665900, 3959500; 665900, 3959400; 666000, 3959400; 666000, 3959200; 666100, 3959200; 666100, 3959100; 666200, 3959100; 666200, 3959000; 666300, 3959000; 666300, 3958400; 666600, 3958400; 666600, 3958300; 666700, 3958300; 666700, 3958200; 666800, 3958200; 666800, 3958100; 667000, 3958100; 667000, 3958000; 666900, 3958000; 666900, 3957600; 667000, 3957600; 667000, 3957500; 667500, 3957500; 667500, 3957400; 667600, 3957400; 667600, 3957300; 667900, 3957300; 667900, 3957200; 668000, 3957200; 668000, 3957100; 668400, 3957100; 668400, 3957000; 668600, 3957000; 668600, 3956900; 668800, 3956900; 668800, 3956800; 668900, 3956800; 668900,

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Excluding lands bounded by: 666100, 3950800; 665800, 3950800; 665800, 3950700; 665600, 3950700; 665600, 3950500; 665900, 3950500; 665900, 3950600; 666100, 3950600; 666100, 3950800.

Excluding lands bounded by: 664300, 3946800; 664000, 3946800; 664000, 3946600; 664100, 3946600; 664100, 3946500; 664200, 3946500; 664200, 3946400; 664300, 3946400; 664300, 3946300; 664500, 3946300; 664500, 3946500; 664400, 3946500; 664400, 3946600; 664300, 3946600; 664300, 3946800.

Excluding lands bounded by: 670100, 3941000; 669900, 3941000; 669900, 3940900; 669800, 3940900; 669800, 3940800; 669900, 3940800; 669900, 3940700; 670100, 3940700; 670100, 3941000.

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Unit 22. Lopez Lake-Arroyo Grande Creek: San Luis Obispo County, California. From USGS 1:24,000 quadrangle maps Arroyo Grande NE, Caldwell Mesa, Lopez Mtn, Nipomo, Oceano, Santa Margarita Lake, Tar Spring Ridge, land bounded by the following UTM zone 10 NAD83 coordinates (E, N): Subunit A (North) 719900, 3911600; 720200, 3911600; 720200, 3911500; 720600, 3911500; 720600, 3911400; 720700, 3911400; 720700, 3911300; 721000, 3911300; 721000, 3911200; 721100, 3911200; 721100, 3911000; 721200, 3911000; 721200, 3911100; 721500, 3911100; 721500, 3911000; 721700, 3911000; 721700, 3910800; 721800, 3910800; 721800, 3910600; 722100, 3910600; 722100, 3910500; 722300, 3910500; 722300, 3910400; 722400, 3910400; 722400, 3910300; 722600, 3910300; 722600, 3910200; 723200, 3910200; 723200, 3910100; 723400, 3910100; 723400, 3910000; 723600, 3910000; 723600, 3909900; 723900, 3909900; 723900, 3909800; 724000, 3909800; 724000, 3909700; 724100, 3909700; 724100, 3909600; 724300, 3909600; 724300, 3909500; 724500, 3909500; 724500, 3909400; 724700, 3909400; 724700, 3909300; 724800, 3909300; 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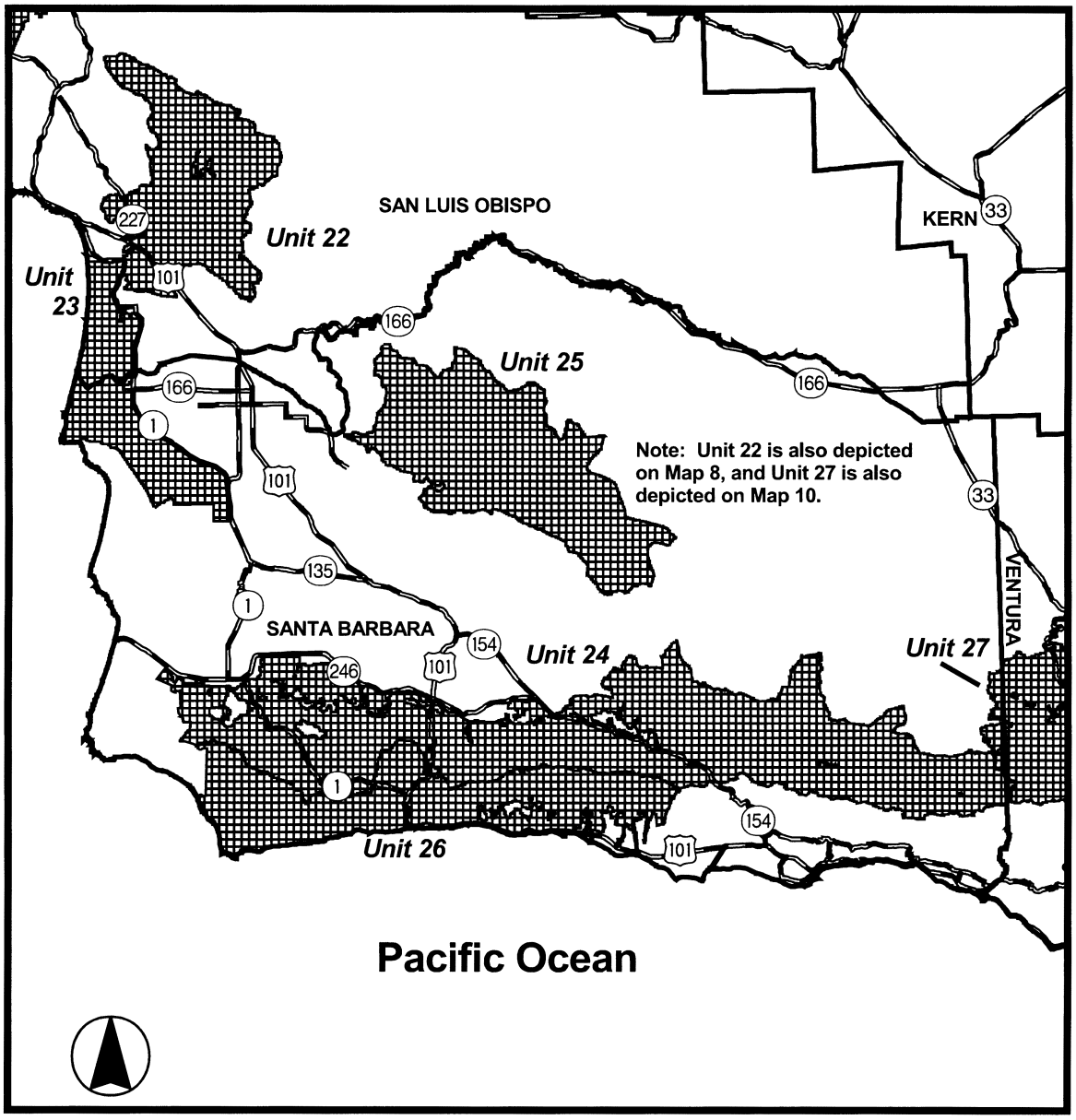
BILLING CODE 4310–55–P



Map 9 - Critical Habitat
Units 23, 24, 25, 26
California Red-Legged Frog

7 0 7 14 Miles

1:874321

BILLING CODE 4310–55–C

Unit 23. Coastal Dunes: San Luis Obispo and Santa Barbara counties, California. From USGS 1:24,000 quadrangle maps Casmalia, Guadalupe, Oceano, Orcutt, Point Sal, Santa Maria, land bounded by the following UTM zone 10 NAD83 coordinates (E,N): 720100, 3886600; 720400, 3886600; 720400, 3885600; 720300, 3885600; 720300, 3885200; 720200, 3885200; 720200, 3884900; 720100, 3884900; 720100, 3884800; 719900, 3884800; 719900, 3884700; 719700, 3884700; 719700, 3884100; 719600, 3884100; 719600, 3884000; 719500, 3884000; 719500, 3883400; 719400, 3883400; 719400, 3883300; 719300, 3883300; 719300, 3883100; 719200, 3883100; 719200, 3882900; 719100, 3882900; 719100, 3882100; 719200, 3882100; 719200, 3881800; 719300, 3881800; 719300, 3881700; 719400, 3881700; 719400, 3881500; 719500, 3881500; 719500, 3881000; 719700, 3881000; 719700,
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Excluding lands bounded by: 719800, 3880400; 719500, 3880400; 719500, 3879400; 719600, 3879400; 719600, 3879300; 719800, 3879300; 719800, 3879200; 720200, 3879200;

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Unit 24. Santa Ynez River: Santa Ynez River, Santa Barbara County, California. From USGS 1:24,000 quadrangle maps Surf, Lompoc, Los Alamos, Figueroa Mountain, San Rafael Mountain, Big Pine Mountain, Tranquillon Mountain, Lompoc Hills, Santa Rosa Hills, Solvang, Santa Ynez, Lake Cachuma, San Marcos Pass, Little Pine Mountain, Hildreth Peak, Old Man Mountain, Santa Barbara, Carpinteria, and White Ledge Peak. Beginning at 120° West Longitude at UTM zone 10 NAD83 y-coordinate 3824900, proceeding west into UTM zone 10, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 775200, 3824900; 774500, 3824900; 774500, 3825000; 774300, 3825000; 774300, 3825100; 774000, 3825100; 774000, 3825200; 773700, 3825200; 773700, 3825300; 773400, 3825300; 773400, 3825400; 772600, 3825400; 772600, 3825300; 772200, 3825300; 772200, 3825200; 771900, 3825200; 771900, 3825300; 771700, 3825300; 771700, 3825400; 771500, 3825400; 771500, 3825500; 771300, 3825500; 771300, 3825600; 770900, 3825600; 770900, 3825700; 770700, 3825700; 770700, 3825500; 770600, 3825500; 770600, 3825300; 770500, 3825300; 770500, 3825200; 770000, 3825200; 770000, 3825100; 769700, 3825100; 769700, 3825200; 769600, 3825200; 769600, 3825100; 769500, 3825100; 769500, 3825000; 769200, 3825000; 769200, 3824900; 769100, 3824900; 769100, 3825000; 768800, 3825000; 768800, 3825100;
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Unit 25. Sisquoc River: Sisquoc River, Santa Barbara County, California. From USGS 1:24,000 quadrangle maps Twitchell Dam, Tepusquet Canyon, Manzanita Mountain, Bates Canyon, Sisquoc, Foxen Canyon, Zaca Lake, Bald Mountain, Hurricane Deck, and Figueroa Mountain. Beginning at 120° West Longitude at UTM NAD83 y-coordinate 3851400, proceeding west into UTM zone 10, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 774100, 3851400; 774100, 3851500; 774000, 3851500; 774000, 3851700; 773900, 3851700; 773900, 3851900; 773800, 3851900; 773800, 3852100; 773700, 3852100; 773700, 3852200; 773600, 3852200; 773600, 3852400; 773700, 3852400; 773700, 3852600; 773600, 3852600; 773600, 3852700; 773400, 3852700; 773400, 3852800; 773200, 3852800; 773200, 3852900; 773000, 3852900; 773000, 3853000; 772700, 3853000; 772700, 3853200; 772400, 3853200; 772400, 3853300; 772000, 3853300; 772000, 3853400; 771900, 3853400; 771900, 3853500; 771700, 3853500; 771700, 3853600; 771400, 3853600; 771400, 3853700; 771300, 3853700; 771300, 3853800; 771100, 3853800; 771100, 3853900; 770900, 3853900; 770900, 3854000; 770800, 3854000; 770800, 3854200; 770700, 3854200; 770700, 3854300; 770600, 3854300; 770600, 3854200; 770500, 3854200; 770500, 3854100; 770300, 3854100; 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Unit 26. Coastal Santa Barbara: Santa Barbara County, California. From USGS 1:24,000 quadrangle maps Surf OE W, Surf, Point Arguello, Tranquillon Mountain, Lompoc Hills, Santa Rosa Hills, Solvang, Santa Ynez, Lake Cachuma, San Marcos Pass, Point Conception, Sacate, Gaviota, Tajiguas, and Dos Pueblos Canyon. Beginning at 120° West Longitude at UTM NAD83 y-coordinate 3817900, proceeding west into UTM zone 10, lands bounded by the following UTM zone 10 NAD83 coordinates (E, N): 774800, 3817900; 774800, 3817800; 774700, 3817800; 774700, 3817700; 774600, 3817700; 774600, 3817600; 774300, 3817600; 774300, 3817400; 773800, 3817400; 773800, 3817300; 773700, 3817300; 773700, 3817200; 773600, 3817200; 773600, 3817000; 773300, 3817000; 773300, 3817100; 773200, 3817100; 773200, 3817200; 773000, 3817200; 773000, 3817300; 772800, 3817300; 772800, 3817400; 772500, 3817400; 772500, 3817500; 771600, 3817500; 771600, 3817600; 771400, 3817600; 771400, 3817400; 771000, 3817400; 771000, 3817300; 770800, 3817300; 770800, 3817400; 770600, 3817400; 770600, 3817300; 769600, 3817300; 769600, 3817400; 768900, 3817400; 768900, 3817300; 768800, 3817300; 768800, 3817200; 768200, 3817200; 768200, 3817100; 768100, 3817100; 768100, 3817200; 768000, 3817200; 768000, 3817100; 767200, 3817100; 767200, 3817200; 766700, 3817200; 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then north along 120° West Longitude to UTM NAD83 y-coordinate 3825000; then proceeding east into UTM zone 11, land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 224700, 3825000; 224700, 3825100; 225400, 3825100; 225400, 3825000; 225900, 3825000; 225900, 3824900; 226000, 3824900; 226000, 3824800; 226200, 3824800; 226200, 3824700; 226300, 3824700; 226300, 3824600; 226600, 3824600; 226600, 3824500; 227600, 3824500; 227600, 3824400; 228000, 3824400; 228000, 3824300; 228400, 3824300; 228400, 3824400; 228600, 3824400; 228600, 3824500; 229600, 3824500; 229600, 3824400; 230000, 3824400; 230000, 3824500; 230300, 3824500; 230300, 3824400; 231100, 3824400; 231100, 3824200; 231200, 3824200; 231200, 3824100; 231600, 3824100; 231600, 3824200; 231700, 3824200; 231700, 3824100; 231800, 3824100; 231800, 3824000; 231900, 3824000; 231900, 3823900; 232000, 3823900; 232000, 3823800; 232100, 3823800; 232100, 3823700; 232300, 3823700; 232300, 3823800; 233000, 3823800; 233000, 3823700; 233100, 3823700; 233100, 3823600; 233300, 3823600; 233300, 3823500; 233600, 3823500; 233600, 3823600; 233800, 3823600; 233800, 3823500; 234200, 3823500; 234200, 3823400; 234300, 3823400; 234300, 3823100; 234800, 3823100; 234800, 3823000; 234900, 3823000; 234900, 3822900; 235000, 3822900; 235000, 3822800; 235200, 3822800; 235200, 3822700; 235300, 3822700; 235300, 3822600; 235500, 3822600; 235500, 3822500; 235700, 3822500; 235700, 3822400; 235800, 3822400; 235800, 3822300; 236100, 3822300; 236100, 3822200; 236300, 3822200; 236300, 3822100; 236500, 3822100; 236500, 3822000; 236600, 3822000; 236600, 3821800; 236500, 3821800; 236500, 3821700; 236300, 3821700; 236300, 3821600; 236000, 3821600; 236000, 3821400; 235900, 3821400; 235900, 3821200; 235800, 3821200; 235800, 3820900; 235700, 3820900; 235700, 3820800; 235500, 3820800; 235500, 3820700; 235400, 3820700; 235400, 3820300; 235200, 3820300; 235200, 3820000; 235100, 3820000; 235100, 3819700; 235000, 3819700; 235000, 3819600; 234900, 3819600; 234900, 3819400; 234800, 3819400; 234800, 3819200; 234700, 3819200; 234700, 3819000; 234600, 3819000; 234600, 3818500; 234500, 3818500; 234500, 3818300; 234400, 3818300; 234400, 3818100; 234500, 3818100; 234500, 3818000; 234400, 3818000; 234400, 3817900; 234300, 3817900; 234300, 3817800; 234100, 3817800; 234100, 3817900; 234000, 3817900; 234000, 3817800; 233800, 3817800; 233800, 3817700; 233500, 3817700; 233500, 3818700; 233400, 3818700; 233400, 3818800; 233500, 3818800; 233500, 3818900; 233400, 3818900; 233400, 3819100; 233200, 3819100; 233200, 3819400; 233100, 3819400; 233100, 3819500; 233000, 3819500; 233000, 3818800; 232900, 3818800; 232900, 3818700; 232800, 3818700; 232800, 3818500; 232700, 3818500; 232700, 3818400; 232600, 3818400; 232600, 3818100; 232500, 3818100; 232500, 3818000; 232400, 3818000; 232400, 3817800; 232500, 3817800; 232500, 3817500; 232400, 3817500; 232400, 3817200; 232300, 3817200; 232300, 3817100; 232200, 3817100; 232200, 3816800; 232100, 3816800; 232100, 3816000; 232000, 3816000; 232000, 3815700; 231800, 3815700; 231800, 3816000;

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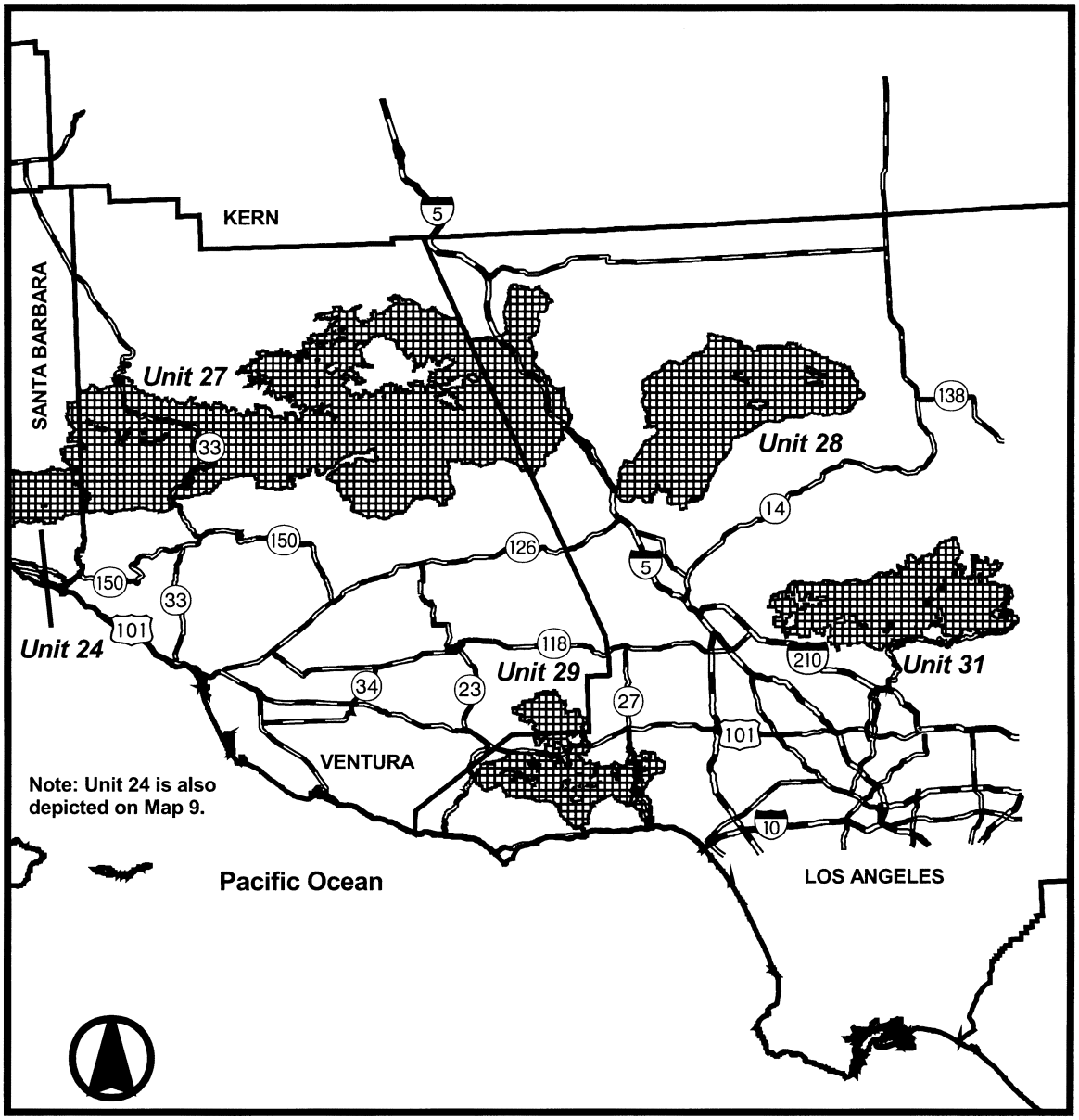
BILLING CODE 4310–55–P



Map 10 - Critical Habitat
Units 27, 28, 29, 31
California Red-Legged Frog

8 0 8 16 Miles

1:1045368

BILING CODE 4310–55–C

Unit 27. Matilija-Sespe-Piru: Santa Barbara, Ventura, and Los Angeles Counties, California. From USGS 1:24,000 quadrangle maps Lebec, La Liebre Ranch, Rancho Nuevo Creek, Reyes Peak, San Guillermo Mountain, Lockwood Valley, Alamo Mountain, Black Mountain, Liebre Mountain, Old Man Mountain, Wheeler Springs, Lion Canyon, Topatopa Mountains, Devils Heart Peak, Cobblestone Mountain, Whitaker Peak, White Ledge Peak, Matilija, Ojai, Santa Paula Peak, Fillmore, and Piru, lands bounded by the following UTM zone 11 NAD83 coordinates (E, N): 309600, 3822700; 309500, 3822700; 309500, 3822600; 309400, 3822600; 309400, 3822500; 309200, 3822500; 309200, 3822600; 309000, 3822600; 309000, 3822700; 308900, 3822700; 308900, 3822600; 308800, 3822600; 308800, 3822500; 308700, 3822500; 308700, 3822000; 308500, 3822000; 308500, 3822100; 308300, 3822100; 308300, 3822200; 308200, 3822200; 308200, 3822000; 308300, 3822000; 308300, 3821900; 308200, 3821900; 308200, 3821700; 308300, 3821700; 308300, 3821600; 308500, 3821600; 308500, 3821500; 308300, 3821500; 308300, 3821400; 308200, 3821400; 308200, 3821500; 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Unit 28. San Francisquito-Amargosa Creek: Los Angeles County, California. From USGS 1:24:000 quadrangle maps Burnt Peak, Lake Hughes, Del Sur, Lancaster West, Warm Springs Mountain, Green Valley, Sleepy Valley, Ritter Ridge, Palmdale, Newhall, and Mint Canyon, lands bounded by the following UTM zone 11 NAD83 coordinates (E, N): 362800, 3814600; 362700, 3814600; 362700, 3814500; 362600, 3814500; 362600, 3814400; 362500, 3814400; 362500, 3814200; 362100, 3814200; 362100, 3813400; 361700, 3813400; 361700, 3813300; 361300, 3813300; 361300, 3813400; 361200, 3813400; 361200, 3814000; 361300, 3814000; 361300, 3814100; 360900, 3814100; 360900, 3814200; 360600, 3814200; 360600, 3814100; 360000, 3814100; 360000, 3814200; 359800, 3814200; 359800, 3814300; 359500, 3814300; 359500, 3815200; 359800, 3815200; 359800, 3815300; 360000, 3815300; 360000, 3815400; 359900, 3815400; 359900, 3815500; 359700, 3815500; 359700, 3815700; 359800, 3815700; 359800, 3816000; 359400, 3816000; 359400, 3815900; 359300, 3815900; 359300, 3816000; 358700, 3816000; 358700, 3816100; 358600, 3816100; 358600, 3816200; 358500, 3816200; 358500, 3816500; 358400, 3816500; 358400, 3816900; 358300, 3816900; 358300, 3817000; 358200, 3817000; 358200,

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Unit 29. Malibu Coastal: Los Angeles and Ventura Counties, California. From USGS 1:24,000 quadrangle maps Thousand Oaks, Calabasas, Canoga Park, Point Dume, Malibu, and Topanga, land bounded by the following UTM zone 11 NAD83 coordinates (E, N): 349500, 3777200; 349500, 3777300; 349600, 3777300; 349600, 3777500; 349700, 3777500; 349700, 3777400; 349800, 3777400; 349800, 3777300; 350100, 3777300; 350100, 3777100; 350200, 3777100; 350200, 3777000; 350400, 3777000; 350400, 3776900; 351200, 3776900; 351200, 3777000; 351300, 3777000; 351300, 3777400; 351400, 3777400; 351400, 3777500; 351500, 3777500; 351500, 3777700; 351600, 3777700; 351600, 3777800; 351700, 3777800; 351700, 3778200; 351800, 3778200; 351800, 3778300; 351900, 3778300; 351900, 3778400; 352000, 3778400; 352000, 3778500; 352100, 3778500; 352100, 3778700; 352200, 3778700; 352200, 3778600; 352300, 3778600; 352300, 3778700; 352400, 3778700; 352400, 3778600; 352600, 3778600; 352600, 3778100; 352900, 3778100; 352900, 3778200; 353100, 3778200; 353100, 3778100; 353400, 3778100; 353400, 3778200; 353500, 3778200; 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Unit 31. Tujunga: Los Angeles County, California. From USGS 1:24,000 quadrangle maps Acton, Pacifico Mountain, San Fernando, Sunland, Condor Peak, Chilao Flat, and Waterman Mountain, lands bounded by the following UTM zone 11 NAD83 coordinates (E, N): 397200, 3794500; 397100, 3794500; 397100, 3794400; 396800, 3794400; 396800, 3794500; 396700, 3794500; 396700, 3794600; 396500, 3794600; 396500, 3794700; 396100, 3794700; 396100, 3794500; 395900, 3794500; 395900, 3794300; 395800, 3794300; 395800, 3794200; 395700, 3794200; 395700, 3794100; 394600, 3794100; 394600, 3793700; 394700, 3793700; 394700, 3793100; 394500, 3793100; 394500, 3793000; 394100, 3793000; 394100, 3792900; 393800, 3792900; 393800, 3792700; 393700, 3792700; 393700, 3792600; 393600, 3792600; 393600, 3792500; 393500, 3792500; 393500, 3792400; 393400, 3792400; 393400, 3792300; 393100, 3792300; 393100, 3792500; 393000, 3792500; 393000, 3792600; 392700, 3792600; 392700, 3792700; 392400, 3792700; 392400, 3792800; 392000, 3792800; 392000, 3792700; 391100, 3792700; 391100, 3792600; 390800, 3792600; 390800, 3792700; 390600, 3792700; 390600, 3792800; 390500, 3792800; 390500, 3792700; 390400, 3792700; 390400, 3792600; 390300, 3792600; 390300, 3792400; 390200, 3792400; 390200, 3792200; 390100, 3792200; 390100, 3792100; 389900, 3792100; 389900, 3792000; 389600, 3792000; 389600, 3791900; 389500, 3791900; 389500, 3792000; 389400, 3792000; 389400, 3792100; 389300, 3792100; 389300, 3792200; 389100, 3792200; 389100, 3792100; 389000, 3792100; 389000, 3792000; 389100, 3792000; 389100, 3791700; 389000, 3791700; 389000, 3791600; 388900, 3791600; 388900, 3791500; 388800, 3791500; 388800, 3791400; 388300, 3791400; 388300, 3791500; 387900, 3791500; 387900, 3791600; 387700, 3791600; 387700, 3791800; 387400, 3791800; 387400, 3791900; 387100, 3791900; 387100, 3792000; 387000, 3792000; 387000, 3792100; 386800, 3792100; 386800, 3792200; 386700, 3792200; 386700, 3792400; 386600, 3792400; 386600, 3792500; 386500, 3792500; 386500, 3792600; 386300, 3792600; 386300, 3792700; 385800, 3792700; 385800, 3792600; 385700, 3792600; 385700, 3792500; 385400, 3792500; 385400, 3792600; 384500, 3792600; 384500, 3792500; 384400, 3792500; 384400, 3792600; 384300, 3792600; 384300, 3792300; 384000, 3792300; 384000, 3792600; 382700, 3792600; 382700, 3791700; 382400, 3791700; 382400, 3792200; 382200, 3792200; 382200, 3792600; 381600, 3792600; 381600, 3793000; 381200, 3793000; 381200, 3793700; 381600, 3793700; 381600, 3794700; 381700, 3794700; 381700, 3795400; 381200, 3795400; 381200, 3795100; 380800, 3795100; 380800, 3794600; 380700, 3794600; 380700, 3794100; 380600, 3794100; 380600, 3793900; 380400, 3793900; 380400, 3794300; 379600, 3794300; 379600, 3794700; 379200, 3794700; 379200, 3795100; 378700, 3795100; 378700, 3793900; 377200, 3793900; 377200, 3794300; 376800, 3794300; 376800, 3794400; 375500, 3794400; 375500, 3794000; 375200, 3794000; 375200, 3794500; 375500, 3794500; 375500, 3794700; 375200, 3794700; 375200, 3794800; 374800, 3794800; 374800, 3795300; 375200, 3795300; 375200, 3795400; 375500, 3795400; 375500, 3795300; 375900, 3795300; 375900, 3795400; 376400, 3795400; 376400, 3795600; 376800, 3795600; 376800, 3796300; 376900, 3796300; 376900, 3797100; 377100, 3797100; 377100, 3797400; 376800, 3797400; 376800, 3797500; 376300, 3797500; 376300, 3797200; 376000, 3797200; 376000, 3797000; 375900, 3797000; 375900, 3796800; 375500, 3796800; 375500, 3796200; 375400, 3796200; 375400, 3796100; 375300, 3796100; 375300, 3796000; 375100, 3796000; 375100, 3795600; 373800, 3795600; 373800, 3796000; 373600, 3796000; 373600, 3797100; 374000, 3797100; 374000, 3797000; 374100, 3797000; 374100, 3796900; 374400, 3796900; 374400, 3797000; 374700, 3797000; 374700, 3797700; 374600, 3797700; 374600, 3797800; 374300, 3797800; 374300, 3797700; 374100, 3797700; 374100, 3798400; 372900, 3798400; 372900, 3798700; 373300, 3798700; 373300, 3799500; 373500, 3799500; 373500, 3800000; 373600, 3800000; 373600, 3800100; 373800, 3800100; 373800, 3800200; 374000, 3800200; 374000, 3800300; 374200, 3800300; 374200, 3800200; 374400, 3800200; 374400, 3800300; 374500, 3800300; 374500, 3800400; 374600, 3800400; 374600,

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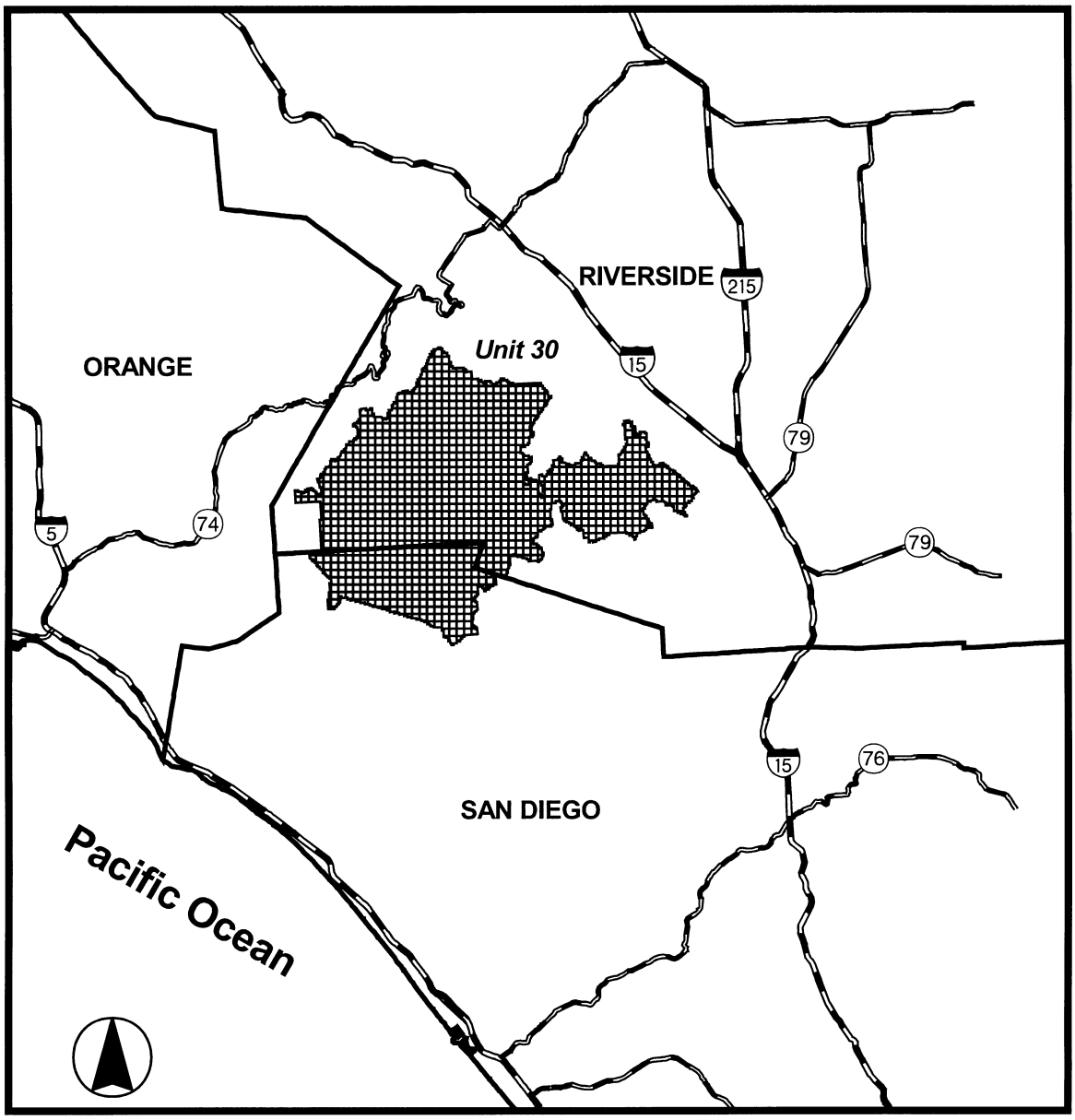
BILLING CODE 4310–55–P



Map 11 - Critical Habitat
Unit 30
California Red-Legged Frog

4 0 4 8 Miles

1:475002

BILLING CODE 4310–55–C

Unit 30. Santa Rosa Plateau/Santa Ana Mountains: Santa Rosa Plateau/Santa Ana Mountains, Riverside and San Diego Counties, California. From USGS 1:24,000 quadrangle maps Sitton Peak, Wildomar, Murrieta, Margarita Peak, and Fallbrook, lands bounded by the following UTM zone 11 NAD83 coordinates (E, N): 464000, 3720300; 464200, 3720300; 464200, 3720200; 464300, 3720200; 464300, 3720000; 464400, 3720000; 464400, 3719900; 464600, 3719900; 464600, 3719700; 464700, 3719700; 464700, 3719300; 464800, 3719300; 464800, 3719000; 464900, 3719000; 464900, 3718900; 465600, 3718900; 465600, 3718800; 465700, 3718800; 465700, 3718700; 465800, 3718700; 465800, 3718600; 466100, 3718600; 466100, 3718100; 466500, 3718100; 466500, 3718000; 466700, 3718000; 466700, 3717900; 466800, 3717900; 466800, 3717800; 467000, 3717800; 467000, 3717900; 467300, 3717900; 467300, 3717800; 467400, 3717800; 467400, 3717700; 467700, 3717700; 467700, 3717800; 467900, 3717800; 467900, 3717900; 468000, 3717900; 468000, 3718000; 468200, 3718000; 468200, 3717900; 468400, 3717900; 468400, 3717800; 468500, 3717800; 468500, 3717700; 468800, 3717700; 468800, 3717600; 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Dated: March 1, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

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Tuesday,
March 13, 2001

Part III

Environmental Protection Agency

40 CFR Part 82

Protection of the Stratospheric Ozone: *De Minimis* Exemption for Laboratory Essential Uses for Calendar Year 2001; Final and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6952–1]

RIN 2060–AJ15

Protection of the Stratospheric Ozone: *De Minimis* Exemption for Laboratory Essential Uses for Calendar Year 2001

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to provide an exemption for laboratory and analytical essential uses for calendar year 2001. EPA has determined that an allowance for laboratory and analytical essential uses, which allows for the production and import of class I stratospheric ozone depleting substances (ODSs) beyond the phase-out of these substances, is allowable under the Clean Air Act as a *de minimis* exemption. Based on specific findings, EPA is amending the regulations on import and production of ODSs to reflect this determination and allocating a general global exemption for class I ODSs for laboratory and analytical essential uses for the year 2001. This action allows for the continued import and production of class I ODSs for essential laboratory uses necessary for protecting public health and the environment. EPA is issuing a companion proposal to this direct final rule elsewhere in this issue of the **Federal Register**.

DATES: This rule is effective on May 14, 2001 without further notice, unless EPA receives adverse comment by April 12, 2001. If we receive significant adverse comment on this rule, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Should you have any comments on this direct final rule submit them to: Margaret Sheppard, U.S. Environmental Protection Agency (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. If you send your comments via overnight express mail, send them to: Margaret Sheppard; 4th floor, 501 3rd Street NW; Washington, DC 20001. All comments will be filed in EPA Air docket number A–93–39. If your comments contain confidential business information, submit them directly to Margaret Sheppard in two versions: one clearly marked ''Public'' to be filed in the public docket, and the other marked ''Confidential'' to be reviewed by authorized government personnel only.

Materials relevant to this rulemaking are contained in Docket No. A–93–39. The Docket is located in Waterside Mall Room M–1500, 401 M Street, SW., Washington, DC. The materials may be inspected from 8 a.m. until 5:30 p.m. Monday through Friday. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Ozone Protection Hotline at (800) 296–1996 or Margaret Sheppard, U.S. Environmental Protection Agency, Global Programs Division, Office of Air and Radiation (6205J), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *sheppard.margaret@epa.gov;* (202) 564–9163 phone and (202) 565–2141 fax.

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without specific prior proposal for calendar year 2001; we view this as a noncontroversial amendment and anticipate no adverse comment since we have already received comment on this issue in response to the proposed rule allocating essential use allowances for the year 2000 (64 FR 59144, November 2, 1999). With this action, EPA is taking the comments received on the proposed rule allocating essential use allowances for the year 2000 and applying them to a rulemaking determining a *de minimis* exemption for laboratory and analytical uses (''laboratory uses'') for the year 2001. This direct final amends 40 CFR 82.4. We are publishing a separate document that will serve as the proposal to this *de minimis* exemption for laboratory and analytical uses. This rule will be effective on May 14, 2001. If EPA receives adverse comment on this rule, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address any significant adverse comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

You may claim that information in your comments is confidential business information, as allowed by 40 CFR part 2. If you submit comments and include information that you claim as confidential business information, we request that you submit them directly to Margaret Sheppard in two versions: one clearly marked ''Public'' to be filed in the public docket, and the other marked ''Confidential'' to be reviewed by authorized government personnel only.

The regulated categories affected by this action include:

Category	SIC	NAICS
1. Medical and Diagnostic Laboratories	8071	6215
2. Research and Development in the Physical, Engineering, and Life Sciences	8731 and 8733	54171
3. Environmental Consulting Services	8999	54162

This table is not intended to be exhaustive but, rather, provides a guide for readers likely to be interested in this direct final rule. If you have any questions regarding the applicability of this direct final rule please consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Table of Contents

I. Notice of Proposed Rulemaking Summary
II. Overview of Comments
III. *De Minimis* Exemption for Essential Laboratory and Analytical Uses of Class I ODSs in 2001
IV. Criteria for Exempting Laboratory and Analytical Uses after December 31, 2001
V. Administrative Requirements
VI. Judicial Review
VII. Submittal to Congress and General Accounting Office

I. Notice of Proposed Rulemaking Summary

The Notice of Proposed Rulemaking (NPRM) published on November 2, 1999 (64 FR 59141), proposed the allocation of essential use allowances for class I stratospheric ozone depleting substances (ODSs) for specific uses agreed to by the Parties to the Montreal Protocol.[1] The Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) is an international

[1] This proposal addressed a number of ''essential uses'' of ODSs allowed under the Montreal Protocol, including ODSs used in metered dose inhalers, in the Space Shuttle and Titan Rockets, and laboratory and analytical methods. EPA issued an interim final rule for allowance allocations for the year 2000 for metered dose inhalers, the Space Shuttle, and Titan Rockets on January 6, 2000 (65 FR 716) and later finalized that rule on June 30, 2000 (65 FR 40524). In those final rules, we stated that we would address laboratory and analytical uses of ODSs in a separate final rule.

agreement to reduce and eventually eliminate production and consumption [2] of all stratospheric ozone depleting substances. Under both the Protocol and the Clean Air Act (''the Act''), the elimination of production and consumption is accomplished through adherence to phase-out schedules for the production and consumption of specific ODSs including chlorofluorocarbons (CFCs), halons, carbon tetrachloride, methyl chloroform, hydrochlorofluorocarbons, and methyl bromide. Under the Montreal Protocol and the Act, there was an original schedule for phasing out class I ODSs by January 1, 2000. (Table 2 in section 604(a) of the Act sets the amounts of class I ODSs that were allowed to be produced under the original schedule.) Later actions by the Parties, including the United States, accelerated the phase out of production and import of class I ODSs so that all developed countries had phased them out by January 1996. However, the Protocol and the Act provide exemptions which allow for the continued import and/or production of class I ODS for specific uses. Under the Montreal Protocol, exemptions are granted for uses that are determined by the Parties to be ''essential.'' Decision IV/25, taken in 1992, established criteria for determining whether a specific use should be approved as essential, and set forth the international process for making such determinations. Decision IV/25 states the following:

(1) That a use of a controlled substance should qualify as 'essential' only if:

(i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and

(ii) There are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health;

(2) That production and consumption, if any, of a controlled substance for essential uses should be permitted only if:

(i) All economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and

(ii) The controlled substance is not available in sufficient quantity and quality from existing stocks of banked or recycled controlled substances, also bearing in mind the developing countries' need for controlled substances.

For the year 2001, the parties to the Montreal Protocol granted the U.S. essential use allowances for CFCs for use in metered dose inhalers for the treatment of asthma and chronic obstructive pulmonary disease, methyl chloroform for use in the Space Shuttle and Titan Rockets, and a *global* essential use exemption for laboratory and analytical uses. Each Party nominates or requests essential use allowances for specific quantities of class I ODSs for medical devices and other essential uses. For laboratory uses, the Protocol allows for a ''global exemption''—that is, a general exemption for all laboratory and analytical uses meeting established criteria [3]—rather than requiring countries to nominate an amount to be used for laboratory and analytical uses. This ''global exemption'' for laboratory essential uses allows flexibility since it can be difficult to predict a nation's needs for laboratory research in advance. In today's rulemaking, EPA is implementing this ''global exemption'' as a general exemption for laboratory and analytical uses in the U.S.

EPA is responsible for allocating essential use allowances in the U.S. through rulemaking in accordance with provisions in the Act. From 1996 through 1999, EPA implemented the Montreal Protocol's laboratory exemption under the authority of the original phase-out schedule specified in the Act at section 604(a). Under section 604(a), Table 2, EPA could authorize production and import of carbon tetrachloride and other class I ODSs in amounts that did not exceed 15 percent of the baseline amount for each substance (the amount of CFCs and halons consumed in 1986 is the baseline amount for these chemicals, and the amount of carbon tetrachloride consumed in 1989 is the baseline amount for this chemical) through 2001 for methyl chloroform and through 1999 for all other class I ODSs. The actual amounts of class I ODSs previously supplied to laboratories under this global essential use exemption are listed in Table III below. These amounts were far below 15 percent of baseline for these substance (See Table III for the quantities of class I ODSs supplied to laboratories under this previous essential use exemption versus the baseline amount of each chemical as defined at 40 CFR 82.6.) EPA implemented the laboratory use exemption as part of the phase-out described in section 604(a) without granting a specific allocation.

The original phase-out schedule specifies that production and consumption of carbon tetrachloride and other class I substances should be zero in the year 2000. While section 604(d) does provide explicit exemptions to the ban on production and consumption of class I ODSs for use in medical devices and various other uses such as halons for aviation safety, and methyl chloroform for nondestructive testing of metal fatigue, the Act does not explicitly provide or prohibit an exemption for laboratory and analytical uses. Thus, in the November 2, 1999 proposed rule allocating essential use allowances for calendar year 2000, we identified the possibility that in the year 2000 and beyond, EPA might not be able to provide a laboratory essential use exemption under section 604(d) for most class I ODSs, including CFCs, halons, carbon tetrachloride, or hydrobromofluorocarbons (HBFCs).

We also explained in the proposal that the ban would apply only to the import and production of class I ODSs for laboratory uses and would not apply to their actual use in the laboratory. Thus, laboratories could continue to use stockpiles of class I ODSs produced or imported prior to January 1, 2000, and lab suppliers could continue to buy and sell laboratory grade class I ODSs held in stock to laboratories. We also stated that if EPA determined in the final rulemaking that essential use exemptions for laboratory uses were no longer available, the supply of this subset of class I ODSs would be finite, and once domestic stockpiles were depleted, laboratories would cease to have access to these chemicals. Finally, EPA solicited comment on the above interpretation and other possible interpretations of the statutory requirements related to EPA's ability to grant essential use exemptions for laboratory and analytical uses.

II. Overview of Comments

EPA initially received three comments concerning laboratory uses in response to the NPRM published on November 2, 1999.[4] One commenter, who represents research-based

[2] ''Consumption'' is defined as the amount of a substance produced in the United States, plus the amount imported, minus the amount exported to Parties to the Montreal Protocol (*see* section 601(6) of the Clean Air Act). Stockpiles of class I ODSs produced prior to the 1996 phase-out can continue to be used for purposes not expressly banned at 40 CFR part 82, subpart C-Ban on Nonessential Products Containing Class I Substances and Ban on Nonessential Products Containing or Manufactured with Class II Substances.

[3] EPA has previously adopted the United Nations Environment Programme's recommendations for criteria for and conditions on the exemption for laboratory and analytical uses in appendix G of subpart A of 40 CFR part 82. Under these criteria, the following laboratory purposes qualify for the exemption: equipment calibration; use as extraction solvents, diluents, or carriers for chemical analysis; biochemical research; inert solvents for chemical reactions, as a carrier or laboratory chemical; and other critical analytical and laboratory purposes.

[4] The three commenters were the Pharmaceutical Research and Manufacturers of America, Hoffmann-La Roche, Inc., and Gardner, Carton & Douglas, representing the CFC Consortium.

pharmaceutical and biotechnology companies, stated that EPA can and should continue to allow a laboratory use exemption for all ODSs in order to ensure that research on new materials is as unrestricted as is reasonably possible. The commenter said that the ability to purchase and to import small quantities of various ODSs may be necessary in early stages of research on new compounds since in synthesizing some chemicals, it may be difficult to obtain the desired reaction product if an ODS cannot be used as a reagent. According to the commenter, while companies' efforts for developing compounds may devote the time and resources necessary to redesign the approach for synthesizing a chemical in the later stages, for the early stages of developing compounds, the turnover and attrition rates are so high that an inability to purchase a critical starting material may result in leaving unexplored an entire category of potentially therapeutic molecules. According to the commenter, a verbal survey of pharmaceutical companies turned up only a few who had purchased any ODSs for laboratory use in the last two or three years. These instances were one-time purchases of a few grams of material for use in research. In at least one case during 1999, the material had to be imported, as it was not available for purchase within the United States. The commenter believes that manufacture and importation at this rate of usage represent a legitimate *de minimis* activity, especially when contrasted with the ODS released by a single refrigerant leak from a large chiller. The commenter believed that EPA should continue to allow the manufacture and importation of all ODS for laboratory and analytical use, subject to the limitations in 40 CFR part 82, subpart A, appendix G.

The second commenter is a pharmaceutical company who also opposes the deletion of EPA's previous essential use exemption for laboratory and analytical uses, and asks that EPA provide a *de minimis* exemption for class I ODSs for these uses. This commenter stated that the use of carbon tetrachloride is critical as a laboratory solvent and co-reagent in laboratory synthetic development procedures involving the reduction and dehydration of certain intermediates that lead to derivatives used in research and development programs for test drugs. They stated that although it may be possible to substitute other solvents for these uses, any transition would require a commitment of additional time and resources, and success cannot be assured. This commenter also stated that carbon tetrachloride is one of the only solvents for Nuclear Magnetic Resonance (NMR) analytical chemical procedures used to elucidate the molecular structure of certain complex organic chemicals. Finally, this commenter stated that the total quantity of carbon tetrachloride currently used in these laboratory synthetic and analytical procedures is estimated to be 16 liters annually, most of which is ultimately disposed for treatment as hazardous waste. This commenter also stated that EPA can allow the laboratory use exemption under the Act, which provides a basis for a *de minimis* exemption according to the Court in *Alabama Power Company* v. *Costle* (636 F. 2d 323, 360–61 (D.C. Cir. 1979)), when the ''burdens of regulation yield a gain of trivial or no value.''

Another commenter, a consortium that represents pharmaceutical companies who produce metered dose inhalers, urged EPA to retain the laboratory-use exemption at least for the narrow purpose of testing those CFCs which are destined for use in metered dose inhalers (MDIs). MDI manufacturers are required by the Food and Drug Administration (FDA) to test each batch of CFC propellant used in MDIs to assure that the CFCs conform to various specifications, including limits on impurity levels. The commenter stated that removing the laboratory-use exemption would substantially and unnecessarily complicate the process of acceptance testing for MDIs for companies that manufacture the MDIs in Europe and then import them to the U.S. The commenter believed that under the proposal, such companies would need to request and receive a special essential-use allowance allocation for a minuscule amount of CFCs used to test the MDIs in the U.S., rather than relying upon the laboratory use exemption.

This commenter stated that EPA is not restricted to granting exemptions to those enumerated in section 604(d) of the Act, and that the Agency could consider a *de minimis* exemption. The commenter also suggested that CFCs imported to the U.S. to be analyzed as to whether they meet the FDA specifications for use in metered dose inhalers could be exempted using the authority at 604(d) of the Act. This section of the Act provides an exemption for import and production of CFCs for use in medical devices. In particular, the commenter stated that the use of CFCs for use ''in'' a medical device, an exempt essential use under section 604(d)(2), could include the CFCs used for laboratory testing as part of the CFCs used in the manufacture of MDIs.

EPA agrees that a *de minimis* exemption for laboratory essential uses is appropriate, for the reasons described below in section III. Because we are addressing the wider issue for all laboratory uses of class I ODSs, we do not believe it is necessary at this time to decide whether CFCs (Class I ODSs) used to test MDIs fall under the medical device essential use exemption of section 604(d)(2). Companies can rely upon the laboratory use exemption to obtain CFCs for acceptance testing of MDIs.

Because of the small number of initial comments, we felt it would be important to gather additional stakeholder input on the laboratory use portion of the rule while finalizing the year 2000 allocation of essential use allowances for metered dose inhalers and the Space Shuttle and Titan Rockets. The interim final rule allocating essential use allowances for the year 2000 for use in metered dose inhalers and the Space Shuttle and Titan Rockets was published on January 6, 2000 (65 FR 716), and the final rule was published on June 30, 2000 (65 FR 50524).

EPA solicited additional stakeholder input on the laboratory essential use exemption by working with Sigma Aldrich, a major supplier of class I ODSs for laboratory uses. Sigma Aldrich posted a notice on their website stating that EPA was proposing to disallow the import and production of class I ODSs for use in laboratory and analytical uses, and that EPA would consider comments on this issue. In response to the Sigma Aldrich announcement, EPA received over 70 comments requesting that EPA continue to allow lab uses of class I ODSs in the year 2000 and beyond. (Comments are posted in docket # A–93–39.)

One group of commenters stated that an exemption for laboratory and analytical uses for class I ODSs is critical because many regulatory programs within the EPA and at the state level require that various pollutants, including class I ODSs such as carbon tetrachloride and certain CFCs, be monitored in water, air and soil. These programs include those promulgated under the Clean Water Act, the Clean Air Act, the Resource Conservation and Recovery Act (RCRA), and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). In order to test for the presence and quantify the amount of any chemical in water, soil, or air, the testing equipment must be calibrated using high purity samples of

the chemical of interest as a standard. Then testers must analyze a sample of water, soil, or air using the specific methodology for identifying concentrations of the chemical established by various public health agencies including EPA. As explained more fully in section III below, EPA agrees that these types of monitoring tests do require the use of certain CFCs and that it is appropriate to grant an exemption for these types of essential laboratory uses.

Table I below contains EPA statutes and environmental testing regulations which require testing for various class I ODSs. As such, calibration standards of class I ODSs are necessary to determine whether the contaminant is present in the sample, and it is not possible to create an alternative test method that uses no class I ODSs.

TABLE I.—ENVIRONMENTAL TESTING AND MONITORING METHODS USING CLASS I ODSS AS CALIBRATION STANDARDS

Authority	Environmental testing programs	Test Method
Clean Water Act	Volatile organic compounds in water and surface water; National Pollutant Discharge Elimination System; National Primary Drinking Water Standards—Testing for volatile organic compounds in water.	Methods 502.2, 524.2, 551.1, 601, 624, 5035 CLP for volatile organic compounds in water.
Clean Air Act	Hazardous Air Pollutants; Air Toxics; National Ambient Air Quality Standards—Photochemical Air Monitoring Stations (PAMS) program.	Methods TO–14 and TO–15 for volatile organic compounds in air.
RCPA/CERCLA	Solid waste	Methods 8021B, 8260 for carbon tetrachloride in soil and solid waste.
Occupational Safety and Health Act.	NIOSH/OSHA National Institute for Occupational Safety and Health/Occupational Safety and Health Administration.	Method 1020: for CFC–112a and CFC–112 in air Method 1003: for halogenated hydrocarbons in air, including carbon tetrachloride Method 1018: for CFC–12 in air.

Table II below contains statutes and the environmental testing regulations which require testing methods that use class I ODSs as extractants or solvents. In the future, the Agency believes it may be possible to use alternatives to some of these testing methods that would not require class I ODSs:

TABLE II.—TESTING METHODS THAT REQUIRE CLASS I ODSS AS EXTRACTANTS OR SOLVENTS

Authority	Environmental testing program	Test method
Occupational Safety and Health Administration	NIOSH/OSHA	Method 5026: Measurement of mineral oil mist in air.
Clean Water Act	National Pollutant Discharge Elimination System.	Method 418.1 Petroleum Hydrocarbons, Total Recoverable; Method 413.1[5] and 413.2, Oil and Greast, Total Recoverable.

[5] Method 1664 Revision A does not use class I ODSs and is available as an alternative to methods 413.1. Guidance documents on this test method may be accessed at *http://www.epa.gov/ost/methods/oil.htm1*. This alternative method has been available since mid-1999, a relatively short time. EPA is still in the proces of informing testers that this alternative method is available and that methods 413.1 and 413.2 are no longer the only acceptable tests to meet EPA requirements. Testers require time to adjust to learning the new test procedures, using new equipment and using up or replacing existing stocks of CFC–113. Therefore, the Agency believes that it is appropriate to continue to allow methods 413.1 and 413.2 as essential laboratory uses for calendar year 2001. As discussed below in section IV, this may no longer be true beginning with calendar year 2002.

The second group of comments that EPA received was from researchers who utilize class I ODSs in small quantities in the laboratory for a wide variety of basic science research applications. These commenters stated that restricting the availability of carbon tetrachloride and CFCs for laboratory use would be a major impediment to scientific research, and would put U.S. academic and industrial researchers at a great disadvantage. They also stated that carbon tetrachloride and CFCs have long played central roles in a wide variety of investigations involving these compounds as gas phase samples, solutes, or solvents, and have been essential in developing a proper understanding of a broad range of chemical properties and processes whose significance extends throughout all basic and applied chemical sciences. A few commenters noted that decreased availability of CFCs and carbon tetrachloride would significantly restrict the range of compounds available for pharmaceutical design and would restrict the development of potentially life-saving therapies. Finally, many commenters stated that the amount of class I ODSs used in research settings is very small. Some commenters provided estimates of the amount of CFCs and carbon tetrachloride used in their particular laboratory uses in a year. These estimates ranged from as little as twenty-five milliliters or a few grams, from estimates of some smaller, academic laboratories, to a maximum of fifty-three liters, for a large pharmaceutical firm.

All commenters, with one exception, urged EPA to continue to provide an essential use exemption allowing continued production and import of class I ODSs for laboratory and analytical uses. Many stated that the majority of responsible researchers store the chemical waste in sealed bottles, so ODSs used in lab applications typically are not emitted into the atmosphere. One commenter estimated that only 0.4% to 10% of carbon tetrachloride, the most commonly used ODS in laboratories, was emitted to the atmosphere rather than recovered. Again, for the reasons set forth below in section III, EPA has determined that a de minimis exemption is appropriate for essential laboratory uses in 2001. Part of the rationale for this determination is that the controls in place, as noted by the commenters and as required in appendix G, provides adequate

assurances that very little, if any, environmental damage will result from the handling and disposal of the small amounts of class I ODSs used in laboratory applications.

In summary, commenters stated there are no adequate alternatives for class I ODS in the following applications:

1. Carbon tetrachloride:

(a) Liver toxicity research.

(b) Research into the functioning of enzymes related to biodehalogenation, and the study of metabolic routes leading to toxic effects.

(c) Low molecular weight halogenated compounds including some class I ODSs are transformed into synthetic ''building blocks,'' a useful strategy for the development of new medicinal and pharmacological agents.

(d) As an extractant for organic synthesis and purification, as well as unreactive solvents for carrying out fundamental chemical studies.

(e) As a medium to carry out enzymatic reactions.

(f) As a solvent for procedures such as benzylic halogenation.

(g) For use in Nuclear Magnetic Resonance Spectroscopy (NMR) (Carbon tetrachloride is critical for this use since it is necessary to use a solvent containing no hydrogen atoms for testing certain materials.)

(h) In the chemical separation of osmium for geological research which is a critical step used in determining the absolute age of rocks, minerals, and meteorites.

2. Various CFC compounds, including CFC–113:

(a) Preparation of kidney tissue for studying the pathogenesis of kidney disease.

(b) In the study of electrostrictive stimulated Rayleigh scattering using lasers.

(c) Preparation of antiproliferative glycolypids and analogs of KRN7000, both of which have potential as anti-cancer agents.

(d) Preparation of adenoviral vectors for gene therapy.

(e) Biochemical investigations into the mechanism of enzyme action.

(f) Hydrologic age dating to determine the pathway and persistence of ground water contamination by other synthetic chemicals.

The one commenter who believed no exemption was necessary stated that there are alternatives available and that CFCs and carbon tetrachloride do not need to be available for laboratory and analytical uses. EPA disagrees. For nearly all laboratory uses identified, such as class I ODSs used as calibration standards, there are no alternatives available. Because the use of class I ODSs are necessary to provide the public with important environmental and health testing, EPA believes that an essential use exemption for laboratory uses is justified for 2001. For the one testing method where we are aware of an alternative method that does not require class I ODS, the method for testing oil and grease in water, the Agency believes that users should switch to the alternative method as soon as is reasonably possible.

EPA received one comment stating that because environmental testing laboratories are required to conduct testing using methods specified by EPA using class I ODS, the taxes placed on these substances should be waived since the laboratory has no alternative method available to them. Under the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239, section 7506, Congress imposed a new federal tax on CFCs and other ODSs to encourage cuts in consumption of these chemicals and to promote the development of alternatives. EPA does not have the authority to waive this or any other tax.

III. *De Minimis* Exemption for Essential Laboratory and Analytical Uses of Class I ODSs in 2001

With today's action, EPA is making the determination that continued import and production of class I ODSs for laboratory and analytical uses in 2001 is allowable as a *de minimis* use under the Act for the following reasons:

1. The amount produced for this use is infinitesimal and trivial when compared to the amount of class I ODSs produced prior to the regulatory ban in 1996 when baseline production allowances of class I ODS totaled 10,840 metric tons for carbon tetrachloride, and 322,558 metric tons for all CFCs. Furthermore, the amount of class I ODS used for laboratory uses is approximately two orders of magnitude smaller than the amount used for metered dose inhalers, and about the same order of magnitude as the amount of methyl chloroform used in the Space Shuttle and Titan Rockets, both of which receive an essential use exemption. (For a comparison of the amounts, see Tables III and IV below.)

2. The continued production of small amounts of class I ODSs is essential for a number of analytical tests mandated by EPA and other public health agencies as part of programs for protecting the environment and human health.

3. The nature of these laboratory and analytical applications involves extremely controlled use and disposal of all chemicals, including any ODSs. As a result, emissions of the ODSs into the atmosphere are negligible.

4. The class I ODSs, specifically carbon tetrachloride and CFCs, are used in small quantities for a myriad of uses in basic science research and medical research. Disallowing the essential use allowances for these uses would inhibit important scientific innovations with important public health benefits such as developing new drug therapies and research into liver pathogenesis.

In addition to these reasons, EPA believes that a *de minimis* essential use exemption for laboratory and analytical uses in calendar year 2001 is appropriate because:

(A) EPA recognizes the limited grounds for the creation of a *de minimis* exemption, but believes such grounds exist by the very nature of the statutory language contained in Title VI of the Act, specifically section 604. In addition to the general production phase out in section 604(a), Congress, by operation of section 604(d), also provides for exemptions where limited uses would serve an important public need. EPA believes that the laboratory uses noted today are very similar to the exemptions provided in 604(d) and serve similar public purposes. It should be noted that section 604(d) provides for specific exemptions, but by its express language it does not preclude other exemptions. Courts have consistently held that where Congress has not expressly prohibited an exemption there is likely to be a basis for the justification of *de minimis* authority to provide an exemption when the burdens of regulation yield a gain of trivial or no value. (See *Alabama Power Company* v. *Costle* (636 F.2d 323, 360–61 (D.C. Cir. 1979); *Environmental Defense Fund* v. *EPA* (82 F.3d 451, 465 (D.C. Cir. 1996)). In addition to providing essential laboratory needs as noted above, EPA also believes that the ban of ODSs for laboratory uses would produce trivial environmental benefit.

(B) As noted below in Table III of this preamble, EPA expects there to be very small quantities of ODSs actually consumed under this exemption and such quantities are well below the cap for certain exemptions contained in section 604(d). In light of the conditions already applied to the global exemption by appendix G to subpart A of 40 CFR part 82, EPA believes that any additional controls on laboratory uses would provide little, if any, benefit. Appendix G also sets forth the limited laboratory uses for the import or new production of ODSs.

(C) EPA believes a *de minimis* exemption in this circumstance is also consistent with the language and intent of section 614(b). Although this section requires EPA to implement both the

Montreal Protocol and the Clean Air Act, and in cases of conflict to implement that which is more stringent, it is believed that the guidelines set forth in Decision IV/25 and in appendix G of subpart A of 40 CFR part 82 provide stringent controls on how the categorical exemption for laboratory uses shall be applied. Therefore, EPA believes it is meeting its legal obligations and will continue to assess annually whether such laboratory uses are indeed essential.

(D) As noted above, the use of ODSs are required in many environmental and health tests mandated by the government. The requirements of these tests would go unfulfilled should EPA implement only the language contained within the Act. Therefore, EPA believes it is appropriate to use the *de minimis* ''tool'' to avoid this otherwise inherent conflict. The courts have held that the ''literal meaning of a statute need not be followed where the precise terms lead to absurd or futile results, or where failure to allow a *de minimis* exemption is contrary to the primary legislative goal.'' (See *State of Ohio* v. *EPA* (997 F.2d 1520, 1534 (D.C. Cir. 1993); *Public Citizen* v. *Young* (831 F.2d 1108 (D.C. Cir. 1987)). Given the number of environmental and health statutes with laboratory tests which require the use of ODSs it is likely that Congress did not intend for a ban on such uses by the provisions set forth in the Clean Air Act.

Based on these considerations, EPA is allocating a *de minimis* exemption for all laboratory and analytical uses for production and import of class I ODSs for the year 2001. There is no cap on the amount that may be produced or imported for the year 2001, consistent with the Montreal Protocol's treatment of laboratory uses. Laboratory and analytical uses must meet the conditions and criteria described in appendix G of subpart A of 40 CFR part 82. We will continue the same monitoring and reporting requirements for 2001 that we previously finalized on August 5, 1998 as part of the regulations for the phase out of class I ODSs at 40 CFR 82.13 (u) through (z) (63 FR 41625). These requirements are described below.

Environmental Impact of the Laboratory Essential Use Exemption

As illustrated by Table III, the quantity of class I ODSs supplied to various laboratories in the U.S. under the general essential use exemptions in the year 1996 through 1999 have been extremely small. These quantities are small even when contrasted with the relatively small quantities of class I ODSs used in the U.S. in metered dose inhalers and for the Space Shuttle and Titan Rocket, both essential uses for which the Act provides a specific exemption (see Table IV). The Act at section 604(d)(3) also provides an exemption for the use of halon-1211, halon-1301, and halon-2402 for the purposes of aviation safety.

TABLE III.—AMOUNT OF CLASS I ODSS SUPPLIED TO LABORATORIES IN THE U.S.

Chemical	Ozone depleting potential	Baseline consumption allowance (metric tons) as defined by 40 CFR 82.6	Amount of chemical supplied to labs by year [3] (metric tons)			
			1999	1998	1997	1996
CFC–11	1	91,976	0.143	0.11	0.2	0.15
CFC–12	1	148,398	< 0.001	< 0.001	< 0.001	< 0.001
CFC–112	1	5.9	< 0.001	< 0.001	< 0.001	< 0.001
CFC–113	0.8	71,072	2.761	7.052	11.478	4.478
CFC–114	1	5,171	0.007	0.002	0.006	0.007
CFC–115	.001	5,935	< 0.001	< 0.001	< 0.001	0.001
Carbon tetrachloride	1.1	10,840	9.248	6.694	9.535	10.326
Methyl Chloroform	0.1	255,991	2.413	2.269	6.695	4.591
Methyl Bromide	0.7	109	0.014	0.031	0.007	0.023
Hydrobromo-fluorocarbons (Group VII Class I ODSs)	(*)	40	0.003	0.008	0.004	0.014

[3] Data taken from U.S. EPA ODS Tracking System.
* Varies with specific chemical.

TABLE IV.—AMOUNT OF CLASS I ODSS USED FOR ESSENTIAL USES OTHER THAN LABORATORY AND ANALYTICAL USES IN THE U.S.[2]

Year	Amount of CFCs (CFC–11, CFC–12, and CFC–114) used in MDIs	Amount of methyl chloroform used in the space shuttle and Titan rockets
1999	2630 metric tons	11 metric tons.
1998	2425 metric tons	6.4 metric tons.
1997	2255 metric tons	24.5 metric tons.
1996	2368 metric tons	0 metric tons.

The amounts of class I ODSs that have been used for laboratory uses is approximately two orders of magnitude smaller than the amount used for metered dose inhalers, and about the same order of magnitude as the amount of methyl chloroform used in the Space Shuttle and Titan Rockets. The amount of class I ODS used for laboratory uses is four to six orders of magnitude smaller than the baseline amounts which represent the amount of class I ODSs used prior to the complete ban under the phase-out. EPA believes that Congress did not intend to create a conflict between enforcing programs under the Clean Water Act, the Resource Conservation and Recovery Act, the Clean Air Act, and the Comprehensive Emergency Response, Compensation and Liability Act which require the use

of class I ODSs as calibration standards, and enforcing a complete ban on production of class I ODSs under Title VI of the Act. EPA believes that preventing the use of ODSs to ensure compliance with environmental statutes uses is contrary to the public welfare and is trivial in terms of the total amount of ODS emitted into the atmosphere. In addition, the Agency believes that the public benefit of allowing the continued use of class I ODSs for basic science research far outweighs any potential environmental damage by the very small amount of ODSs emitted into the atmosphere through this use.

Environmental Benefits of Allowing a de Minimis Exemption for Laboratory and Analytical Uses

As discussed above, EPA and other public health agencies require testing for many different pollutants in the air, water, and soil, including carbon tetrachloride and other class I ODSs. Many environmental remediation and testing programs require monitoring of carbon tetrachloride, a toxic chemical which causes liver damage and which EPA classifies as a probable human carcinogen. Carbon tetrachloride and other class I ODSs are often used in laboratories to prepare standards to verify that testing and monitoring equipment reads correctly. Comparison against the standard ensures that the testing equipment accurately determines the presence of a particular class I ODS and its concentration in a sample. The use of analytical standards is critical to detecting the class I ODSs at a concentration near permit limits.

Table I lists analytical methods requiring carbon tetrachloride or other class I ODSs under wastewater discharge, waste management and air permit programs. In addition to these analytical test method requirements, identification of historical contamination sites often includes sampling of soil and groundwater and analyses for chlorinated compounds such as carbon tetrachloride or other class I ODSs. Ongoing remediation programs, where a class I ODS may be a constituent of concern, would be adversely affected by disallowing a laboratory essential use exemption. Without high purity standards, it would be impossible to analyze samples with the accuracy required to identify and implement an appropriate remedy or to correctly monitor the progress of the remediation program for these compounds.

CFCs and other class I ODSs are also required as a solvent or extractant in tests for other pollutants in environmental and worker safety programs. (See Table II for examples.) In some cases, the tests themselves mandate the use of class I ODSs. Until and unless alternative test methods can be developed and approved by the applicable governing agencies, laboratories will continue to need class I ODSs for these required test methods. It may take many years to develop some of these alternative testing methods, and in some cases, it may not be possible to find alternatives. The Technical and Economic Assessment Panel for the Montreal Protocol periodically reviews the need for specific analytical methods and seeks alternative testing methods that do not require class I ODSs. In each case where an alternative method becomes available, regulators will need time to adopt the alternative method and testers will require time to learn about and to switch to the alternative testing method. As discussed below in section IV and above in section II, footnote 5, EPA expects this to occur for one particular method used in the U.S. for testing oil and grease in water.

Current EPA and Occupational Safety and Health Administration (OSHA) regulations have put in place testing requirements to protect the environment and human health. EPA believes that it would be contrary to the public welfare to prevent testing that requires using class I ODSs when those tests protect the environment and human health unless the hazards of keeping the class I ODSs outweigh the benefits of these environmental tests. Because of the small amounts of class I ODSs required for this testing and because these uses emit little or no ODSs, we believe that the benefits of health and environmental tests significantly outweigh the potential damage to the ozone layer by allowing the use of class I ODSs in these tests. The Montreal Protocol currently allows for such testing through 2005. Also, the Agency believes that until alternative test procedures are approved that do not require class I ODSs, preventing use of the class I ODSs needed to perform required environmental testing would create an untenable situation for many laboratories and state and local environmental and public health agencies.

Finally, calibration standards of class I ODSs are critical for enforcement of Title VI, the portion of the Act which protects stratospheric ozone. Calibration standards are necessary to calibrate the chemical identification devices that customs agents use to test whether imports of chemicals are properly labeled and are legal imports of class I ODSs. Without calibration standards available, the ability of the customs agents to properly identify class I ODSs would be compromised as would the ability of the U.S. to enforce the Act and the Montreal Protocol.

Benefits in Allowing Laboratory Essential Use Allowances for Medical and Basic Science Research

Despite the very small quantities of class I ODSs used for basic science research, the Agency believes that disallowing production and import of class I ODSs would needlessly disadvantage scientists pursuing important discoveries, for example:

(1) Investigating potential new drug therapies. A class I ODS sometimes is necessary to synthesize various compounds to investigate efficacy at an early stage of research on the new drug. Not allowing access to class I ODSs by removing the exemption for laboratory uses could slow the development of promising treatments for a variety of medical problems.

(2) Carbon tetrachloride has been used for many years to induce liver damage in rats as a model for liver disease in humans. Use of a different chemical would yield non-comparable results to previous studies, which would adversely affect research on this topic in the U.S.

(3) Carbon tetrachloride is considered the ideal solvent in analytical procedures using Nuclear Magnetic Resonance to determine the molecular structure of organic substances. Organic compounds can be potentially useful in a variety of applications, such as vitamins, dietary supplements and flavorings.

(4) Carbon tetrachloride is essential in determining the age of geologic formations. Such research is useful for understanding the geology of an area.

Laboratory and Analytical Uses of Ozone Depleting Substances Considered Essential Under the Global Exemption for 2001

The United Nations Environment Programme (UNEP) recommended criteria for and conditions on the exemption for laboratory and analytical uses. EPA adopted these recommendations in appendix G of subpart A of 40 CFR part 82 as part of the regulations for phasing out class I ODSs. Under the criteria of this appendix, the following laboratory uses qualify for the exemption: Equipment calibration; use as extraction solvents, diluents, or carriers for chemical analysis; biochemical research; inert solvents for chemical reactions, as a carrier or laboratory chemical; and other critical analytical and laboratory

purposes. Class I ODSs used in manufacture of a product in a laboratory do not qualify for this exemption.

Appendix G of subpart A of 40 CFR part 82 also specifies certain conditions for laboratory uses of class I ODSs under the exemption. The class I ODSs must meet standards of purity (at least 99.0 or 99.5 percent purity, depending on the substance). The class I ODSs may then be mixed with other chemicals as they are customarily used in the laboratory. The class I ODSs or mixtures must be supplied in particular kinds of containers (re-closable containers or high pressure cylinders smaller than three liters or in glass ampules of 10 mm or less). These containers must be marked clearly as substances that deplete the ozone layer which are restricted to laboratory use and analytical purposes. In addition, there are requirements for recycling and disposal. Finally, the Parties, including the U.S., have requirements for reporting the purity, quantity, and test procedures required for each class I ODSs, the efforts for eliminating its use, and regulations or other requirements on controlled substances.

EPA believes that appendix G of subpart A of 40 CFR part 82 clarifies the allowable, essential uses of class I ODSs under the global exemption for laboratory and analytical essential uses. We continue to require that the conditions of this appendix apply to today's exemption.

Reporting Requirements Related to Laboratory and Analytical Essential Uses of Ozone Depleting Substances

Any person obtaining class I controlled substances after the phase-out under the laboratory use exemption in today's action is subject to all the restrictions and requirements in other sections of 40 CFR part 82, subpart A. Holders of essential-use allowances or persons obtaining class I controlled substances under the essential-use exemptions must comply with the record keeping and reporting requirements in 40 CFR 82.13 (u) through (z). In short, these regulations require the following:

(a) Laboratory customers purchasing a controlled substances under the global laboratory essential-use exemption must provide the producer, importer or distributor with a one-time-per-year certification for each controlled substance that the substance will only be used for laboratory applications and will not be resold or used in manufacturing. The certification must also include:

(1) The identity and address of the laboratory customer;

(2) The name and phone number of a contact person for the laboratory customer; and

(3) The name and quantity of each controlled substance purchased, and the estimated percent of the controlled substance that will be used for each listed type of laboratory application (§ 82.13(y)).

(b) Any distributor of laboratory supplies receiving an essential use exemption for sale to laboratory customers must:

(1) Report quarterly the quantity received of each controlled substance from each producer or importer (§§ 82.13(v) and 82.13 (u));

(2) Report quarterly the quantity of each controlled substance purchased by each laboratory customer whose certification was previously provided to the distributor (§ 82.13(x)); and

(3) Maintain as records copies of certifications from laboratory customers provided (§ 82.13(w)).

(c) Distributors of laboratory supplies, who purchased class I controlled substances under the global laboratory essential-use exemption, and who only sell the class I substances as reference standards for calibrating laboratory analytical equipment, may be eligible to report annually instead of quarterly (§ 82.13(z)).

For guidance documents and reporting forms, please contact the Stratospheric Protection Hotline at (800) 296–1996 or (301) 614–3390.

IV. Criteria for Exempting Laboratory and Analytical Uses After December 31, 2001

Today's rule provides a *de minimis* exemption for essential laboratory uses of class I ODSs for 2001 based on the criteria mentioned in the previous section. These criteria for 2001 are consistent with the Montreal Protocol and with the requirements for laboratory uses of class I ODSs in appendix G of subpart A of 40 CFR part 82. EPA expects to make rulings on laboratory uses of class I ODSs for future years that will consider similar issues and criteria.

While EPA is making the determination that a *de minimis* exemption applies to laboratory essential use allowances for the year 2001, it should be noted that the Parties to the Montreal Protocol have not extended the global laboratory and analytical essential-use exemptions indefinitely. Decision X/19 taken at the tenth meeting of the Parties in 1998 states that the global laboratory and analytical essential-use exemption lasts until December 31, 2005 under the conditions set out in annex II of the report of the Sixth Meeting of the Parties. Decision X/19 also states that at the annual Meetings of the Parties, on the basis of information reported by the Technology and Economic Assessment Panel (TEAP), the Parties may decide on any uses of controlled substances which should no longer be eligible under the exemption for laboratory and analytical uses and the date from which any such restriction should apply. (The full text Decision X/19 is posted in docket A–93–39, and may also be reviewed at the UNEP website at http://www.unep.org/ozone/)

The Parties at the Eleventh Meeting of the Parties to the Protocol took Decision XI/15. This decision eliminated the following uses from the global exemption for laboratory and analytical uses for controlled substances from the year 2002:

(a) Testing of oil, grease and total petroleum hydrocarbons in water;

(b) Testing of tar in road-paving materials; and

(c) Forensic finger-printing.

EPA plans to issue a rule through notice and comment rulemaking that would allocate a global exemption for essential laboratory uses for the year 2002 in accordance with Decision XI/15. This means that for the year 2002, EPA would provide a global exemption to the ban on production and import of class I ODSs for laboratory uses, except for use in those laboratory applications considered non-essential by the Parties pursuant to Decision XI/15. Therefore, new production or import of class I ODSs for non-essential uses would be prohibited beginning January 1, 2002.

EPA notes that in the U.S., class I ODSs generally are not used for testing of tar in road-paving materials and forensic finger-printing. Thus, we expect that the major impact of decision XI/15 will be upon testing of oil, grease and total petroleum hydrocarbons in water. The Clean Water Act requires testing for the conventional pollutant ''oil and greases'' in water. The analytical methods for measuring ''oil and greases'' include EPA methods 413.1, 413.2 and 418.1, which use CFC–113. Pursuant to Decision XI/15, EPA will however propose that methods for testing oil and grease using class I ODSs will no longer be considered ''essential'' in the year 2002 and thus newly produced CFC–113 will not be available for those EPA test methods. However, this should not cause a problem for laboratories. On May 14, 1999, EPA published an alternative analytical method for these tests that does not require using class I ODSs: Method 1664 Revision A: N-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated—Hexane Extractable

Material (SGR–HEM; Nonpolar Material) by Extraction and Gravimetry. EPA promulgated method 9071B to replace method 9070 and incorporates Method 1664 for use in EPA's Resource Conservation and Recovery Act programs. For more information on method 1664, please reference EPA's Office of Water website at http://www.epa.gov/ost/methods/oil.html. For technical information regarding Resource Conservation and Recovery Act test methods and regulations please call the Office of Solid Waste Methods information and communication exchange at (703) 821–4690. For technical information regarding testing methods required under the Clean Water Act, call the Office of Water Resource Center at (202) 260–7786.

Pursuant to decision X/19, the TEAP will continue to make recommendations for laboratory uses which no longer require class I ODSs in the future. The Parties to the Protocol may disallow additional uses from the global ban on essential use exemptions in the future. Currently, there are no recommendations by the TEAP to disallow any additional laboratory uses beyond those listed in decision XI/15. If the Parties decide to disallow any other laboratory uses, EPA will issue regulations to enforce those decisions. Further, EPA reserves the right to determine that a particular test method is non-essential in the United States, even if it continues to be considered essential by the Parties.

V. Administrative Requirements

A. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector.

Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Section 204 of the UMRA requires the Agency to develop a process to allow elected state, local, and tribal government officials to provide input in the development of any proposal containing a significant Federal intergovernmental mandate.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. Because this rule imposes no enforceable duty on any State, local or tribal government it is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments; therefore, EPA is not required to develop a plan with regard to small governments under section 203. Finally, because this rule does not contain a significant intergovernmental mandate, the Agency is not required to develop a process to obtain input from elected state, local, and tribal officials under section 204.

B. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is significant and therefore subject to OMB review and the requirements of the Executive Order. The Order defines significant regulatory action as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined by OMB and EPA that this action is not a significant regulatory action under the terms of Executive Order 12866 and is therefore not subject to OMB review under the Executive Order.

C. Paperwork Reduction Act

This action does not add any information collection requirements or increase burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The Office of Management and Budget (OMB) previously approved the information collection requirements contained in the final rule promulgated on May 10, 1995, and assigned OMB control number 2060-0170 (EPA ICR No. 1432.16). The information collection requirements were revised in a direct final rule on August 4, 1998 (EPA ICR No. 1432.17).

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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.

D. Executive Orders 13084 and 13175: Consultation and Coordination With Indian Tribal Governments

On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this rule was developed during the period when Executive Order 13084 was still in force,

and so tribal considerations were addressed under Executive Order 13084.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as (1) a small business that manufactures or sells chemicals and has 500 or fewer employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. Without today's direct final, manufacturers of ODSs for laboratory uses would be subject to the general ban on the production and import of class I ozone depleting substances under the Clean Air Act. This action reduces regulatory burden by providing an exemption to the ban for the production and import of class I ozone depleting substances specifically for laboratory and analytic uses.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. The rule itself is an exemption which reduces the burden of the phase out of ozone depleting substances. We requested comment from laboratory users, some of whom work in small research laboratories, in the development of today's rule and have issued an exemption from a ban otherwise applicable.

F. Applicability of Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health and safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it implements the phase-out schedule and exemptions established by Congress in Title VI of the Clean Air Act.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in this regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This rule does not involve changing any technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 432255, August 10, 1999), 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

If EPA complies by consulting, Executive Order 13132 requires EPA to provide the Office of Management and Budget (OMB), in a separately identified section of the preamble to the rule, a federalism summary impact statement (FSIS). The FSIS must include a description of the extent of EPA's prior consultation with State and local officials, a summary of the nature of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. Also, when EPA transmits a draft final rule with federalism implications to OMB for review pursuant to Executive Order 12866, EPA must include a certification from the agency's Federalism Official stating that EPA has met the requirements of Executive Order 13132

in a meaningful and timely manner. This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This final rule will affect only the ability of private entities and the national government to request production of controlled ozone-depleting substances for use in laboratory and analytical applications. Thus, the requirements of section 6 of the Executive Order to not apply to this rule.

VI. Judicial Review

Under section 307(b)(1) of the Act, EPA finds that these regulations are of national applicability. Accordingly, judicial review of the action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within sixty days of publication of the action in the **Federal Register**. Under section 307(b)(2), the requirements of this rule may not be challenged later in the judicial proceedings brought to enforce those requirements.

VII. Submittal To Congress and General Accounting Office

The Congressional Review Act (CRA), 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. EPA has determined that this regulation will become effective on May 14, 2001 and thus no good cause finding is necessary. 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Imports, Ozone layer, Reporting and recordkeeping requirements.

Dated: March 5, 2001.

Christine Todd Whitman,

Administrator.

40 CFR Part 82 is to be amended as follows:

PART 82—[AMENDED]

1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart A—Production and Consumption Controls

2. Section 82.4 is amended by revising the introductory text of paragraph (t), by removing paragraph (t)(1)(iii), and by adding paragraph (t)(3) to read as follows:

§ 82.4 Prohibitions.

* * * * *

(t) Effective January 1, 1996, essential-use allowances are apportioned to a person under paragraph (t)(2) of this section for the exempted production or importation of specified class I controlled substances solely for the purposes listed in paragraphs (t)(1)(i) and (ii) of this section. From October 5, 1998 through December 31, 1999 production and importation of class I controlled substances for laboratory and analytical applications are exempted as an essential use if conducted in accordance with requirements in § 82.13 (u) through (z) and appendix G to subpart A.

(1) * * *

(2) * * *

(3) A global exemption for class I ozone depleting substances for laboratory and analytical uses shall be in effect for the year 2001 subject to the restrictions in appendix G of this subpart.

Laboratory and analytical applications are exempted as essential uses for the year 2001 if conducted in accordance with the requirements at § 82.13(u) through (z) and appendix G of this subpart and in accordance with the Montreal Protocol. There is no amount specified for this exemption.

[FR Doc. 01–6084 Filed 3–12–01; 8:45am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[FRL–6951–9]

RIN 2060–AJ15

Protection of the Stratospheric Ozone: *De Minimis* Exemption for Laboratory Essential Uses for Calendar Year 2001

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA has determined that it is appropriate to provide an exemption for laboratory and analytical essential uses for calendar year 2001. EPA has determined that an allowance for laboratory and analytical essential uses, which allows for the production and import of class I stratospheric ozone depleting substances (ODSs) beyond the phase-out of these substances, is allowable under the Clean Air Act as a *de minimis* exemption. Based on specific findings, EPA is proposing to amend the regulations on import and production of ODSs to reflect this determination and is allocating a general global exemption for class I ODSs for laboratory and analytical essential uses for the year 2001. This action would allow for the continued import and production of class I ODSs for laboratory uses where there are no sufficient substitutes. These laboratory uses include numerous analytical methods necessary for protecting public health and the environment.

Elsewhere in this issue of the **Federal Register**, EPA is amending the regulations on import and production of ODSs as a direct final rule without prior proposal because we view these revisions as noncontroversial and anticipate no significant adverse comments. You can find a detailed discussion of the revisions and our rationale in the preamble to the direct final rule.

DATES: We must receive comments on this proposed rule on or before April 12, 2001. If a hearing is requested, written comments must be received by April 27, 2001.

Anyone requesting a public hearing must contact the EPA by March 23, 2001. If requested, a public hearing will be held in Washington, DC at 10:30 on March 28, 2001.

ADDRESSES: Comments should be submitted to: Margaret Sheppard, U.S. Environmental Protection Agency (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC 20460. All comments will be filed in EPA Air docket number A–93–39. Your comments must be identified as comments on this proposed rule (companion to the direct final rule) and must be submitted in duplicate. If your comments contain confidential business information, submit them directly to Margaret Sheppard in two versions: one clearly marked ''Public'' to be filed in the public docket, and the other marked ''Confidential'' to be reviewed by authorized government personnel only.

Materials relevant to this rulemaking are contained in Docket No. A–93–39. The Docket is located in Waterside Mall Room M–1500, 401 M Street, SW., Washington, DC 20460, telephone (202) 260–7548. The materials may be inspected from 8 a.m. until 5:30 p.m. Monday through Friday. EPA may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: The Stratospheric Ozone Protection Hotline at (800) 296–1996 or Margaret Sheppard, U.S. Environmental Protection Agency, Global Programs Division, Office of Air and Radiation (6205J), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; *sheppard.margaret@epa.gov,* (202) 564–9163 phone and (202) 565–2141 fax.

SUPPLEMENTARY INFORMATION: With this document, EPA is proposing to grant essential use allowances for import and production of class I ozone depleting substances for the year 2001. We are allocating essential use allowances for essential laboratory uses under a *de minimis* exemption as a direct final rule without prior proposal because, we view this as a noncontroversial revision and anticipate no adverse comment. EPA believes that these revisions are noncontroversial because under a previous proposal for essential use allowances for 2000, we received almost unanimous support from a wide range of industry, government, and academic institutions for EPA to continue to allow new production and import of class I ODSs for laboratory and analytical uses through a *de minimis* exemption. If EPA receives no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

You may claim that information in your comments is confidential business information, as allowed by 40 CFR part 2. If you submit comments and include information that you claim as confidential business information, we request that you submit them directly to Margaret Sheppard in two versions: one clearly marked 'Public' to be filed in the public docket, and the other marked 'Confidential' to be reviewed by authorized government personnel only. The EPA will disclose information identified as 'Confidential' only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by the EPA, the information may be made available to the public without further notice to the commenter.

The regulated categories affected by this action include:

Category	SIC	NAICS
1. Medical and Diagnostic Laboratories	8071	6215
2. Research and Development in the Physical, Engineering, and Life Sciences	8731 and 8733	54171
3. Environmental Consulting Services	8999	54162

This table is not intended to be exhaustive but, rather, provides a guide for readers likely to be interested in this proposed rule. If you have any questions regarding the applicability of this proposed rule please consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Are the Administrative Requirements for This Proposal?

Regulatory Flexibility Analysis

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this proposed rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as (1) a small business that manufactures or sells chemicals and has 500 or fewer

employees; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. Without today's proposed rule, manufacturers of ODSs for laboratory uses would be subject to the general ban on the production and import of class I ozone depleting substances under the Clean Air Act. This action reduces regulatory burden by providing an exemption to the ban for the production and import of class I ozone depleting substances specifically for laboratory and analytic uses.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. The rule itself is an exemption which reduces the burden of the phase out of ozone depleting substances. We requested comment from laboratory users, some of whom work in small research laboratories, in the development of today's rule and have issued an exemption from a ban otherwise applicable. For information regarding other administrative requirements for this action, please see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 82

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Chlorofluorocarbons, Exports, Imports, Ozone layer, Reporting and recordkeeping requirements.

Dated: March 5, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–6085 Filed 3–12–01; 8:45 am]

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Federal Register

Tuesday,
March 13, 2001

Part IV

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Integrated Research, Education, and Extension Competitive Grants Program—Water Quality: Request for Proposals, and Request for Input; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Integrated Research, Education, and Extension Competitive Grants Program—Water Quality: Request for Proposals and Request for Input

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of Request for Proposals and Request for Input.

SUMMARY: The Cooperative State Research, Education and Extension Service (CSREES) announces the availability of grant funds and requests proposals for the Integrated Research, Education, and Extension Competitive Grants Program—Water Quality for fiscal year (FY) 2001 to support integrated, multifunctional agricultural research, extension, and education activities that address water quality priorities in United States agriculture, which can most properly be addressed by multifunctional and multidisciplinary projects incorporating research, extension, and education activities. The amount available for support of this program in FY 2001 is approximately $12,400,000. Approximately, $9,000,000 will be used to fund proposals solicited under this Request for Proposals (RFP). The remaining funds (approximately $3,000,000) will be used to fund proposals solicited under a joint RFP with the United States Environmental Protection Agency (EPA). This joint RFP will solicit proposals that integrate research and extension activities aimed at addressing nutrient management issues at the watershed scale. This joint RFP will be announced in the **Federal Register** at a later date.

This notice sets out the objectives for Water Quality projects, the eligibility criteria for projects and applicants, the application procedures, and the set of instructions needed to apply for a Water Quality grant under this authority.

By this notice, CSREES additionally solicits stakeholder input from any interested party regarding the FY 2001 Integrated Research, Education, and Extension Competitive Grants Program—Water Quality for use in the development of any future RFP's for this program.

DATES: Proposals must be received by close of business (COB) on May 14, 2001 (5:00 p.m. EST). Proposals received after this date will not be considered for funding. Comments regarding this RFP are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Integrated Research, Education, and Extension Competitive Grants Program—Water Quality; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Waterfront Centre, room 1307; 800 9th Street, SW.; Washington, DC 20024.

Proposals sent via the U.S. Postal Service must be sent to the following address: Integrated Research, Education, and Extension Competitive Grants Program—Water Quality; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

Written user comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA-CSREES; STOP 2299; 1400 Independence Avenue, SW.; Washington, DC 20250–2299; or via e-mail to: RFP-OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year of the RFP to which you are responding.

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact Dr. Michael P. O'Neill; National Program Leader for Water Quality; Natural Resources and Environment Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2210; 1400 Independence Avenue, SW.; Washington, DC 20250–2210; Telephone: (202) 205–5952; Fax: (202) 401–1706; e-mail: moneill@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

Stakeholder Input

Catalog of Federal Domestic Assistance

Part I—General Information
- A. Legislative Authority and Background
- B. Purpose, Priorities, and Fund Availability
- C. Definitions
- D. Eligibility
- E. Types of Proposals
- F. Matching Requirements
- G. Funding Restrictions

Part II—Program Description
- A. Project Types
- B. Program Area Description

Part III—Preparation of a Proposal
- A. Program Application Materials
- B. Content of Proposals
- C. Submission of Proposals
- D. Acknowledgment of Proposals

Part IV—Review Process
- A. General
- B. Evaluation Criteria
- C. Conflicts-of-Interest and Confidentiality

Part V—Grant Awards
- A. General
- B. Funding Mechanisms
- C. Organizational Management Information
- D. Grant Award Document and Notice of Grant Award

Part VI—Additional Information
- A. Access to Review Information
- B. Use of Funds; Changes
- C. Expected Program Outputs and Reporting Requirements
- D. Applicable Federal Statutes and Regulations
- E. Confidential Aspects of Proposals and Awards
- F. Regulatory Information

Stakeholder Input

CSREES is soliciting comments regarding this RFP from any interested party. These comments will be considered in the development of any future RFP for the program. Such comments will be used to meet the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(c)(2)). This section requires the Secretary to solicit and consider input on a current RFP from persons who conduct or use agricultural research, education and extension for use in formulating future RFP's for competitive programs. Comments should be submitted as provided for in the **ADDRESSES** and **DATES** portions of this Notice.

The FY 2000 RFP for Integrated Research, Education, and Extension Competitive Grants Program—Water Quality which was published in the **Federal Register** on April 7, 2000 [65 FR 18852–18863] solicited comments on the RFP from any interested party to be used in the development of future RFP's. No comments were received on this RFP.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under 10.303, Integrated Research, Education, and Extension Competitive Grants Program.

Part I—General Information

A. Legislative Authority and Background

Section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (7 U.S.C. 7626) authorized the Secretary of Agriculture to establish a research,

education, and extension competitive grants program to provide funding for integrated, multifunctional agricultural research, extension, and education activities. Subject to the availability of appropriations to carry out this program, the Secretary may award grants to colleges and universities (as defined by 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) (7 U.S.C. 3103)) on a competitive basis for integrated research, education, and extension projects. Grants are to be awarded to address priorities in United States agriculture that involve integrated research, education, and extension activities as determined by the Secretary in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board.

On November 19, 1999, the Secretary published in the **Federal Register** [64 FR 63560] a notice that the administration of this grant program had been delegated to the Cooperative State Research, Education, and Extension Service (CSREES). This notice also solicited public comment from persons who use or conduct research, extension, or education regarding the priorities to be addressed by this new program. In addition, this notice announced a public meeting to obtain comments to use in developing the proposed rule and RFP's for this new grant program. The public meeting was held on December 6, 1999.

All the comments and the official transcript of the meeting were made available for review on the CSREES web page. The comments and testimonies from the December 6, 1999, public meeting were considered in the formulation of the FY 2000 RFP and FY 2001 RFP. Both RFP's were developed in consultation with the Advisory Board.

The entire Integrated Research, Education, and Extension Competitive Grants Program is funded in FY 2001 at $39,838,535 (after deduction for administrative expenses) for the following integrated activities: Water Quality ($12,348,773), Food Safety ($14,247,128), Pesticide Impact Assessment ($4,313,522), Crops at Risk from Food Quality and Protection Act (FQPA) Implementation ($1,424,858), FQPA Risk Mitigation Program for Major Food Crop Systems ($4,654,537), Methyl Bromide Transition Program ($2,374,764), and Organic Transition ($474,953). There will be four RFP's for this program. The Water Quality and Food Safety Programs will each have a separate RFP, while the latter five programs will be announced as one RFP. In addition, there will also be a joint RFP with EPA on Water Quality. This notice announces and describes the Water Quality component of the Program.

CSREES will administer the Integrated Research, Education, and Extension Competitive Grants Program by determining priorities in United States agriculture through Agency stakeholder input processes and in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board. Each RFP for the different program areas (*i.e.,* Water Quality, Food Safety) will be developed each fiscal year based on these established priorities and the resulting approaches to solving these critical agricultural issues. Although this overall grant program seeks to solve critical agricultural issues through an integration of research, education, and extension activities, a component of a RFP, depending on the priority being addressed and/or the stage at which the priority is being addressed, may request proposals that are research, education, or extension only, or a combination thereof. However, the overall overarching approach to solving the critical agricultural issue, priority, or problem will be through an integration of research, education, and extension activities within each individual program area.

B. Purpose, Priorities, and Fund Availability

The CSREES Water Quality Program is enhanced by the establishment of a water quality program authorized under section 406 of AREERA for an Integrated Research, Education, and Extension Competitive Grants Program. This program brings university scientists, instructors, and extension educators into more effective and efficient partnerships with Federal interagency priority programs in addressing water quality issues in U.S. agriculture. This program also provides the flexibility necessary for CSREES to bring the resources of researchers, instructors, and extension educators to national initiatives and programmatic partnerships that target evolving water quality needs.

The Water Quality Program is targeted directly to the identification and resolution of agriculturally-related degradation of water quality. Proposals are sought that will provide watershed-based information that can be used to: assess sources of water quality impairment in targeted watersheds; develop and/or recommend options for continued improvement of water quality in targeted watersheds; and evaluate the relative costs and benefits associated with cleanup from all responsible sectors (*e.g.,* farming, processing, urban runoff, and municipal waste treatment). The program will favor proposals that have a clear problem statement and that are ''place-based.'' ''Place-based'' means that the proposers have identified a specific location where the work is to be conducted so that the results and implications of the work conducted can be associated with a specific, geo-referenced location. Categories of water quality needs that have been identified, both individually by USDA and in partnership with other Federal programs, include:

—Development and implementation of voluntary approaches that will enable producers to comply with newly developing Federal and State Total Maximum Daily Load regulations for non-point source pollutants.

—Coordination of targeted research, education, and extension activities to minimize any adverse impacts that agricultural, forest, and range management practices; food and agricultural product processing; and/or livestock production systems may have on the Nation's water quality.

—Applied research evaluating the efficacy of currently recommended management practices and strategies to improve water quality.

—Evaluation and error assessment of currently available data sets being used for Geographic Information Systems (GIS) based decision-support models for watershed management.

—Projects supporting the pilot activities of the National Science and Technology Council's National Environmental Monitoring Initiative. This initiative seeks to integrate the Nation's environmental monitoring and related research networks and programs. For more information, see (*http://www.epa.gov/cludygxb/Pubs/factsheet.html*).

—Development and validation of cost-effective means to reduce the contribution of agriculture to the development of harmful algal blooms and hypoxic conditions in coastal systems.

—Development and validation of cost-effective means to reduce the contribution of animal and food processing wastes to water quality degradation.

—Documenting the coincident status and trends of multiple resources and related water quality, demographic, and socioeconomic condition; relating status and trends to human and natural causes and consequences; predicting future trajectories and rates

of change; assessing associated uncertainties; and identifying data, information and research needed to reduce future uncertainties.

—Evaluation of the efficacy of USDA conservation programs' implementation.

The goal of the CSREES Water Quality Program is to fund appropriate research, extension, and education efforts necessary to protect or improve the quality of water resources throughout the United States and its territories, particularly in agriculturally managed watersheds. CSREES seeks proposals to address this goal at the national, regional, state and local level. Agricultural water resource issues addressed in this program reflect the broader spectrum of international water quality issues. This program encourages international partnerships, linkages, and exchanges so long as a clear explanation is provided as to how such international activities, as part of the proposed project, will contribute to addressing U.S. national water quality issues. However, investigators should recognize that such international partnerships, linkages, and exchanges are expected to be a small proportion of the total funding provided through this program.

There is no commitment by USDA to fund any particular proposal or to make a specific number of awards. Approximately $9 million will be available to fund proposals in FY 2001 under this RFP. As mentioned previously, the remaining funds (approximately $3 million) will be used to fund proposals solicited under a joint RFP with EPA. As stated above, this RFP will be published in the **Federal Register** at a later date. However, should this joint effort not occur, these funds will be used to support proposals solicited under this RFP. Proposals are being solicited under this RFP in each of four component areas: National Facilitation proposals, Regional Water Quality Coordination proposals, Extension Education proposals, and Integrated Research, Education, and Extension proposals.

C. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable:

(1) *Administrator* means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved is delegated.

(2) *Authorized departmental officer* means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) *Authorized organizational representative* means the president, director, or chief executive officer or other designated official of the applicant organization who has the authority to commit the resources of the organization.

(4) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) *Cash contributions* means the applicant's cash outlay, including the outlay of money contributed to the applicant by non-Federal third parties.

(6) *Department* or *USDA* means the United States Department of Agriculture.

(7) *Education activity* means formal classroom instruction, laboratory instruction, and practicum experience in the food and agricultural sciences and other related matters such as faculty development, student recruitment and services, curriculum development, instructional materials and equipment, and innovative teaching methodologies.

(8) *Extension activity* means an act or process that delivers science-based knowledge and informal educational programs to people, enabling them to make practical decisions.

(9) *Grant* means the award by the Secretary of funds to an eligible organization or individual to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to accomplish the purpose of the program as identified in these guidelines.

(10) *Grantee* means an organization designated in the grant award document as the responsible legal entity to which a grant is awarded.

(11) *Integrated* means to bring the three components of the agricultural knowledge system (research, education, and extension) together around a problem area or activity.

(12) *Matching* means that portion of allowable project costs not borne by the Federal Government, including the value of in-kind contributions.

(13) *Peer review* means an evaluation of a proposed project for scientific or technical quality and relevance performed by experts with the scientific knowledge and technical skills to conduct the proposed work or to give expert advice on the merits of a proposal.

(14) *Principal investigator/Project director* means the single individual designated in the grant application and approved by the Secretary who is responsible for the direction and management of the project.

(15) *Prior approval* means written approval evidencing prior consent by an authorized departmental officer as defined in (2) above.

(16) *Project* means the particular activity within the scope of the program supported by a grant award.

(17) *Project period* means the period, as stated in the award document, during which Federal sponsorship begins and ends.

(18) *Research activity* means a scientific investigation or inquiry that results in the generation of knowledge.

(19) *Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved is delegated.

(20) *Third party in-kind contributions* means non-cash contributions of property or services provided by non-Federal third parties, including real property, equipment, supplies and other expendable property, directly benefitting and specifically identifiable to a funded project or program.

(21) *Total integrated, multifunctional research, education, and extension approach* means that the combination of grants (although the individual grants may involve only research, education, or extension activities or a combination thereof) awarded under the fiscal year's program components will work together to address the priorities in United States agriculture as determined by the Secretary of Agriculture in consultation with the Advisory Board, that involve integrated research, extension, and education activities.

D. Eligibility

Proposals may be submitted by colleges and universities as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). The terms ''college'' and ''university'' mean an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association. Although an applicant may be eligible based on its status as one of these entities, there are factors which may exclude an applicant

from receiving Federal financial and nonfinancial assistance and benefits under this program (*e.g.,* debarment or suspension of an individual involved or a determination that an applicant is not responsible based on submitted organizational management information). Eligible applicants may subcontract to organizations not eligible under these requirements.

Please note that a research foundation maintained by a college or university is not eligible to receive an award under this program. Proposals received from research foundations will not be considered for funding.

E. Types of Proposals

In FY 2001, projects under the Integrated Research, Education, and Extension Competitive Grants Program authority may be submitted as one of the two types of proposals described below:

(1) New proposal. This is a project proposal that has not been previously submitted to the Integrated Research, Education, and Extension Competitive Grants Program. All new proposals will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

(2) Resubmitted proposal. This is a proposal that had previously been submitted to the Integrated Research, Education, and Extension Competitive Grants Program but not funded. The resubmitted proposal should clearly indicate the changes that have been made in the project proposal. Further, a clear statement acknowledging comments from the previous reviewers, indicating revisions, rebuttals, etc., can positively influence the review of the proposal. Therefore, for resubmitted proposals, the investigator(s) must respond to the previous panel summary on no more than one page, titled ''RESPONSE TO PREVIOUS REVIEW,'' which is to be placed directly after the Project Summary as described in Part III—Preparation of a Proposal. Resubmitted proposals will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

F. Matching Requirements

1. General Requirement

If a grant provides a particular benefit to a specific agricultural commodity, the grant recipient is required to provide funds or in-kind support to match the amount of the grant funds provided. See section 12. c. on ''Matching Funds'' under Part III, B, ''Content of Proposals'' for more details.

2. Waiver

CSREES may waive the matching funds requirement specified in the above paragraph for a grant if CSREES determines that (a) The results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or (b) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

G. Funding Restrictions

CSREES has determined that grant funds awarded under this authority may not be used for the renovation or refurbishment of research, education, or extension space; the purchase or installation of fixed equipment in such space; or the planning, repair, rehabilitation, acquisition, or construction of buildings or facilities.

Part II—Program Description

A. Project Types

Approximately $1,000,000 is available for National Facilitation proposals. The maximum total award is $400,000, with an annual funding limitation of $100,000. The project period may be one to four years in duration. It is anticipated that three to five grants will be awarded in this program component.

Approximately $2,000,000 is available for Regional Water Quality Coordination proposals. Projects will be supported at expected levels of up to $650,000 per year/per region for up to three years. Projects involving more than one region may be considered for larger funding. CSREES expects that some regions will request less funding due to a smaller number of states within the region. It is anticipated that four grants will be awarded in this program component.

Approximately $2,000,000 is available for Extension Education proposals. The maximum total award is $300,000, with an annual funding limitation of $100,000. The project period may be one to three years in duration. It is anticipated that 10–15 grants will be awarded in this program component.

Approximately $3,500,000 is available for Integrated Research, Education and Extension proposals. The maximum total award is $600,000, with an annual funding limitation of $200,000. The project period may be one to three years in duration. It is anticipated that 6–10 grants will be awarded in this program component.

Applications received in any of the aforementioned program areas should include budgets commensurate with the activities proposed. Grants awarded under the Program Area Descriptions of National Facilitation, Extension Education, and Integrated Research, Education, and Extension (as described in this RFP) will be awarded as ''Standard Grants.'' Grants awarded under the Program Area Description of Regional Water Quality Coordination (as described in this RFP) may be awarded as ''Continuation Grants.''

B. Program Area Description

The CSREES Water Quality Program has identified seven topical themes for research, education, and extension projects. These themes are: Animal Waste Management, Drinking Water and Human Health, Environmental Restoration, Nutrient and Pesticide Management, Pollution Assessment and Prevention, Watershed Management, and Water Conservation and Agricultural Water Management. In each of the four program areas—National Facilitation Grants, Regional Water Quality Coordination Grants, Extension Education Grants, and Integrated Research, Education, and Extension Grants, priority will be given to those proposals that address one or more of the seven themes listed above.

1. National Facilitation Proposals (Program Area 110.A) (Maximum award: $100,000/year for up to four years).

Proposals are invited for projects that develop and initiate nationally coordinated programs that will contribute to an increase in public understanding and involvement in community decision-making and that facilitate the development of public policy on water resources issues. Applicants are encouraged to address one or more of the seven themes listed above. All proposals are required to include specific, measurable accomplishments for each project year and a projected time-line. While it is not required that projects be fully independent within the 4-year project period, it is expected that the timeline will culminate in the establishment of an independently supported national coordination effort.

This component of the CSREES Water Quality Program seeks to provide a common base of knowledge in support of individuals and communities grappling to formulate public policy and management strategies that will allow growth and increased profitability while protecting the water resource. Projects will be supported that facilitate the appropriate application of tools and techniques (*i.e.*, Geographic Information Systems, decision support systems, remote sensing, economic analysis, and

world wide web technologies) to strengthen awareness of the water quality impacts of current and proposed land use activities by both community decision-makers and individual property owners. These tools can also be used to target specific problems and locations in need of additional attention. Projects should contribute to an increase in community partnerships and networks that develop solutions to particular concerns identified through the projects and in response to increased citizen awareness of local issues. The result will be more citizen involvement, wider dispersal of information, and more rational analysis of environmental decisions in the community and the nation. Metadata and accomplishment reports should be delivered annually to the appropriate regional coordination group (see Regional Water Quality Coordination Proposals below).

2. Regional Water Quality Coordination Proposals (Program Area 110.B) *(Maximum award: $650,000 per year/ per region for up to three years. Projects involving more than one region may be considered for larger funding. CSREES expects that some regions will request less funding due to a smaller number of states within the region).*

CSREES invites proposals to ensure the integration of water quality efforts within the jurisdiction of each of the ten regions established by the U.S. Environmental Protection Agency (EPA). In FY 2000, funding was provided to support coordination within six of the ten EPA Regions. For FY 2001, proposals are requested to provide regional coordination activities in the remaining four EPA Regions. The EPA Regions are:

Region 2—New Jersey, New York, and the territories of Puerto Rico and the U.S. Virgin Islands.

Region 3—Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

Region 7—Iowa, Kansas, Missouri, and Nebraska.

Region 9—Arizona, California, Hawaii, Nevada, and the territories of Guam and American Samoa. Proposals may be submitted for one or any combination of regions.

This component of the CSREES Water Quality Program is designed to make research, education, and extension resources of the university system more accessible to Federal, State, and local water quality improvement efforts, thus enhancing opportunities for agricultural producers and agriculturally impacted communities to adopt voluntary approaches for the improvement of water quality. Grantees are expected to facilitate the conceptualization and implementation of multi-partner efforts that minimize duplication of effort and that leverage multiple funding sources into a common collaborative effort. As such, it is expected that coordination grantees will initiate partnership activities with key water quality efforts in their region. Investigators should clearly identify the water quality issues and education, extension, and research efforts that are common to the region. Applicants also are encouraged to address one or more of the seven themes listed in Part II. B. A plan should be presented that establishes the approaches to be employed for regional resource sharing, communication, priority setting, and outreach. The proposal should also discuss Federal and State water quality activities in the region and present a strategy for establishing partnerships with appropriate programs.

Each proposal must include provision for a regional coordination mechanism (whether an individual, a committee, or an office) and for a Water Quality Research, Education, and Extension Coordinator in each State or Territory in the Region. Regional coordinators will be expected to work with CSREES National Program Leaders to provide liaison among Federal activities (*e.g.*, U.S. Environmental Protection Agency (EPA) Regional Offices, U.S. Geological Survey National Water Quality Assessment Program (USGS NAWQA) Coordination Offices, USDA Agricultural Research Service (ARS) Regional Offices, USDA Forest Service (FS) Regional Offices, National Aeronautics and Space Administration (NASA), National Oceanic and Atmospheric Administration (NOAA), Bureau of Land Management (BLM)), State environmental organizations, and the State Water Quality Research, Education, and Extension Coordinators within the Region. Successful projects will provide more efficient development, evaluation, and dissemination of information on animal waste management, drinking water and human health, environmental restoration, nutrient and pesticide management, pollution assessment and prevention, watershed management, and water conservation and agricultural water management. Provision should be included in the budget request for the regional coordinator to participate in monthly conference calls as well as a national coordination meeting to be held annually in the Washington, D.C. area.

Each regional project must include a plan for the development and maintenance of a geo-referenced, watershed-based reporting system. This reporting system will serve as the primary vehicle for reporting progress and accomplishments of the CSREES Water Quality Program. Regional projects are expected: (1) To serve as the repository for the reporting of all projects funded on an ad hoc basis by other components of the CSREES Water Quality Program; (2) to collaborate in the linkage of their databases and reporting systems to other funded regions; (3) to periodically conduct water quality needs assessments for the region and report on partnerships and progress in water quality improvement; (4) to facilitate the incorporation of relevant projects that may become funded in the region through CSREES programs (including other sections of the Water Quality Program, the National Research Initiative, the Animal Waste Center, the Initiative for Future Agriculture and Food Systems) or through other federal and state programs (*e.g.*, EPA 319, EPA National Center for Environmental Research and Quality Assurance (NCERQA), National Science Foundation (NSF), and NOAA); and (5) to be compatible with related information sources (*e.g.*, USGS NAWQA Program, EPA Know Your Watershed, CSREES Integrated Pest Management Program, and the CSREES Pesticide Impact Assessment Program).

3. Extension Education Proposals (Program Area 110.C) (Maximum award: $100,000/year for one to three years).

Proposals are invited for Extension Education projects to address water quality issues of State or local importance. One mission of the CSREES Water Quality Program is to provide leadership in extension education that will enable individuals, industry, and government to effect changes enhancing and protecting the Nation's water resources for the public good. The vision is to be recognized as an important and effective partnership providing leadership for water quality education to help people, industry, and governments prevent and solve current and emerging water quality problems. Proposals for this program are expected to address one or more of the seven strategic extension priorities of the Water Quality Program (see *http://www.reeusda.gov/nre/water/strategi.htm).* The seven areas of emphasis for the education program are under-served audiences, watersheds and aquifers, surface water systems, public policy, individual actions, volunteerism, and partnerships. Applicants are encouraged to develop extension education projects that

address one or more of the seven theme areas listed in Part II. B. All proposals are required to include specific, measureable accomplishments for each project year. Metadata and accomplishments reports will be delivered annually to the appropriate regional coordination group. See ''Regional Water Quality Coordination Proposals'' above.

4. Integrated Research, Education, and Extension Proposals (Program Area 110.D) (Maximum award: $200,000/year up to three years).

Proposals are invited that integrate water quality research, education, and extension to solve water quality problems at the whole watershed. Proposals should: (a) Identify the cause of water quality degradation; (b) conduct research filling the gaps that are critical to the development of water improvement practices and programs; (c) implement watershed-scale improvement programs; (d) evaluate and monitor the efficacy of the improvement programs implemented; (e) assess the costs and benefits of water quality management practices that are developed; and (f) conduct evaluations closing the loop and improving our understanding of the drivers of water quality degradation. Each proposal is expected to present a fully integrated research, education, and extension approach to accomplish the objectives listed in (a) through (f) above. CSREES also encourages the inclusion of a curriculum development component that takes advantage of the integrated watershed activities to enhance environmental education at all levels. The proposing investigators are expected to justify watershed selection (*e.g.*, the level of water quality degradation—chemical, physical, and biological; the relative distribution of agricultural, range or forestry land uses within the watershed; and/or proximity to coastal resources) and to demonstrate capacities for establishing and/or maintaining watershed-wide partnerships for the project's implementation. Preference will be given to proposals that: (1) Demonstrate a substantial potential to contribute long term information, existing opportunities for leveraging support and cost sharing, and active public and private sector participation; (2) take advantage of the participatory educational and extension opportunities engendered by the watershed's restoration and by its continued management; and/or (3) focus on watersheds where the project will better inform policy makers in developing the most equitable multistate and/or regional strategies for water quality improvement. Applicants are encouraged to address one or more of the seven theme areas identified in Part II. B. All proposals are required to include specific, measurable accomplishments each project year. Metadata and accomplishments reports will be delivered annually to the appropriate regional coordination groups. See ''Regional Water Quality Coordination Proposals'' above.

5. Other Funding Opportunities

It is anticipated the a joint RFP with EPA will be published in the **Federal Register** at a later date. This RFP will solicit proposals that integrate research and extension activities aimed at addressing nutrient management issues at the watershed scale. The amount of CSREES funding for this purpose is approximately $3,000,000. After publication, this joint RFP will be made available at the web sites of both agencies (i.e.≤, CSREES: http://www.reeusda.gov/integrated/ and EPA: http://www.epa.gov). Should this effort not succeed, these funds will be used to support proposals solicited under this RFP.

Part III—Preparation of a Proposal

A. Program Application Materials

Program application materials are available at the Integrated Research, Education, and Extension Competitive Grants Program website (*http://www.reeusda.gov/integrated/*). If you do not have access to our web page or have trouble downloading material, you may contact the Proposal Services Unit, Office of Extramural Programs, USDA/CSREES at (202) 401–5048. When calling the Proposal Services Unit, please indicate that you are requesting forms for the FY 2001 Integrated Research, Education, and Extension Competitive Grants Program—Water Quality. These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to *psb@reeusda.gov.* State that you want a copy of the Program Description and application materials (orange book) for the Fiscal Year 2001 Integrated Research, Education, and Extension Competitive Grants Program—Water Quality.

B. Content of Proposals

1. General

The proposal should follow these guidelines, enabling reviewers to more easily evaluate the merits of each proposal in a systematic, consistent fashion:

(a) The proposal should be prepared on only one side of the page using standard size (8½″ x 11″) white paper, one inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face (*e.g.*, Geneva, Helvetica, Times Roman).

(b) Each page of the proposal, including the Project Summary, budget pages, required forms, and any appendices, should be numbered sequentially.

(c) The proposal should be stapled in the upper left-hand corner. Do not bind. An original and 14 copies (15 total) must be submitted in one package, along with 10 copies of the ''Project Summary'' as a separate attachment.

(d) If applicable, proposals should include original illustrations (photographs, color prints, etc.) in all copies of the proposal to prevent loss of meaning through poor quality reproduction.

2. Cover Page (Form CSREES–661)

Each copy of each grant proposal must contain an ''Application for Funding'', Form CSREES–661. One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing principal investigator(s)/project director(s)(PI/PD) and the authorized organizational representative who possesses the necessary authority to commit the organization's time and other relevant resources to the project. Any proposed PI/PD or co-PI/PD whose signature does not appear on Form CSREES–661 will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the ''Application for Funding'' form.

Form CSREES–661 serves as a source document for the CSREES grant database; it is therefore important that it be completed accurately. The following items are highlighted as having a high potential for errors or misinterpretations:

(a) Title of Project (Block 6). The title of the project must be brief (80–character maximum), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as ''investigation of,'' ''research on,'' ''education for,'' or ''outreach that'' should not be used.

(b) Program to Which You Are Applying (Block 7). ''Integrated Research, Education, and Extension Competitive Grants Program—Water Quality.''

(c) Program Area and Number (Block 8). The name of the program component (*e.g.*, National Facilitation Proposal, 110.A or Regional Water Quality Coordination, 110.B) should be inserted in this block.

(d) Type of Award Request (Block 13). Check the block for ''new'' or ''resubmission.''

(e) Principal Investigator(s)/Project Director(s) (PI/PD) (Block 15). The designation of excessive numbers of co-PI/PD's creates problems during final review and award processing. Listing multiple co-PI/PD's, beyond those required for genuine collaboration, is therefore discouraged. Note that providing a Social Security Number is voluntary, but is an integral part of the CSREES information system and will assist in the processing of the proposal.

(f) Type of Performing Organization (Block 18). A check should be placed in the box beside the type of organization which actually will carry out the effort. For example, if the proposal is being submitted by an 1862 Land-Grant Institution but the work will be performed in a department, laboratory, or other organizational unit of an agricultural experiment station, box ''03'' should be checked. If portions of the effort are to be performed in several departments, check the box that applies to the individual listed as PI/PD #1 in Block 15.a.

(g) Other Possible Sponsors (Block 22). List the names or acronyms of all other public or private sponsors including other agencies within USDA and other programs funded by CSREES to whom your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES Program Director as soon as practicable. Submitting your proposal to other potential sponsors will not prejudice its review by CSREES; however, duplicate support for the same project will not be provided. Complete the ''Application for Funding,'' Form CSREES–661, in its entirety.

(h) One copy of the ''Application for Funding'' form must contain the signatures of the PI/PD(s) and authorized organizational representative for the applicant organization.

3. Table of Contents

For consistency and ease in locating information, each proposal must contain a detailed Table of Contents just after the cover page. The Table of Contents should contain page numbers for each component of the proposal. Page numbers should begin with the first page of the Project Description.

4. Project Summary

The proposal must contain a Project Summary of 250 words or less on a separate page which should be placed immediately after the Table of Contents and should not be numbered. The names and affiliated organizations of all PI/PD's and co-PI/PD's should be listed on this form, in addition to the title of the project. The summary should be a self-contained, specific description of the activity to be undertaken and should focus on: overall project goal(s) and supporting objectives; plans to accomplish project goal(s); and relevance of the project to regional, State, or local water quality efforts and/or list of CSREES Water Quality Program Priorities listed above. The importance of a concise, informative Project Summary cannot be overemphasized. Summaries for Regional Water Quality Coordination proposals should also indicate all organizations participating in the effort, the organization that will house the database effort, and the mechanism that will be used to coordinate between organizations.

5. Response to Previous Review

This requirement only applies to ''Resubmitted Proposals'' as described under Part I, E, ''Types of Proposals.'' For these proposals, the investigator(s) must respond to the previous panel summary on no more than one page, titled ''RESPONSE TO PREVIOUS REVIEW,'' which is to be placed directly after the Project Summary. If desired, additional comments and responses to the previous panel summary may be included in the text of the Project Description, subject to the page limitation.

6. Project Description

Please Note: For Regional Water Quality Coordination and for Integrated Research, Education, and Extension proposals, the project description may not exceed 15 single- or double-spaced pages of written text and may not exceed a total of 20 pages after inclusion of figures and tables.

For National Facilitation and for Extension Education proposals, the project description may not exceed 8 single- or double-spaced pages of written text and may not exceed a total of ten pages after inclusion of figures and tables. This maximum has been established to ensure fair and equitable competition. The Project Description must include all of the following:

a. Introduction: A clear statement of the long-term goal(s) and supporting objectives of the proposed activities should be included. Summarize the body of knowledge or other past activities which substantiate the need for the proposed project. Describe ongoing or recently completed significant activities related to the proposed project including the work of key project personnel. Preliminary data/information pertinent to the proposed project should be included. In addition, this section should include in-depth information on the following, when applicable:

(1) Estimates of the magnitude of the issues and their relevance to stakeholders and to ongoing State-Federal food and agricultural research, education and extension programs.

(2) Role of the stakeholders in problem identification, planning, and implementation and evaluation as appropriate.

(3) Reasons for having the work performed at the proposing institution.

b. Objectives: Clear, concise, complete, and logically arranged statement(s) of specific aims of the proposed effort must be included in all proposals.

c. Methods: The procedures or methodology to be applied to the proposed effort should be explicitly stated. This section should include but not necessarily be limited to:

(1) A description of stakeholder involvement in problem identification, planning, implementation and evaluation;

(2) A description of the proposed project activities in the sequence in which it is planned to carry them out;

(3) Techniques to be employed, including their feasibility and rationale for their use in this project;

(4) Kinds of results expected;

(5) Means by which extension and education activities will be evaluated;

(6) Means by which data will be analyzed or interpreted;

(7) Details of plans to communicate results to stakeholders and the public;

(8) Pitfalls that might be encountered; and

(9) Limitations to proposed procedures.

d. Cooperation and Institutional Units Involved: Cooperative, multi-institutional and multi-disciplinary applications are encouraged. Identify each institutional unit contributing to the project and designate the lead institution or institutional unit. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional partner of the project team.

e. Facilities and Equipment: All facilities which are available for use or

assignment to the project during the requested period of support should be reported and described briefly. All items of major equipment or instrumentation available for use or assignment to the proposed project should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the project to a successful conclusion should be listed, including dollar amounts and, if funds are requested for their acquisition, justified.

f. Project Timetable: The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

In addition to the above, the National Facilitation and Regional Water Quality Coordination proposals should describe the roles and responsibilities of central coordinators and should present a management plan for the administration of the project including facilitation of communication, planning, and annual report preparation.

7. References

All references cited should be complete, including titles and all co-authors, and should conform to an accepted journal format.

8. Appendices to Project Description

Appendices to the Project Description are allowed if they are directly germane to the proposed project and are limited to a total of two of the following: reprints (papers that have been published in peer reviewed journals) and preprints (manuscripts in press for a peer reviewed journal; these must be accompanied by a letter of acceptance from the publishing journal).

9. Key Personnel

The following should be included, as applicable:

(a) The roles and responsibilities of each PI/PD and/or collaborator should be clearly described;

(b) An estimate of the time commitment involved for each PI/PD and/or collaborator, including current and pending projects; and

(c) Vitae of each PI/PD, senior associate, and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings. A chronological list of *all* publications in *refereed journals* during the past *four (4) years,* including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Also list only those *non-refereed* publications that have *relevance* to the proposed project. All authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

10. Conflict-of-Interest List

A Conflict-of-Interest List must be provided for all individuals involved in the project (i.e., each individual submitting a vitae in response to item 9.(c) of this part). Each list should be on a separate page and include alphabetically the full names of the individuals in the following categories: (a) All collaborators on projects within the past four years, including current and planned collaborations; (b) all co-authors on publications within the past four years, including pending publications and submissions; (c) all persons in your field with whom you have had a consulting or financial arrangement within the past four years, who stand to gain by seeing the project funded; and (d) all thesis or postdoctoral advisees/advisors within the past four years (some may wish to call these life-time conflicts). This form is necessary to assist program staff in excluding from proposal review those individuals who have conflicts-of-interest with the personnel in the grant proposal. The Program Director must be informed of any additional conflicts-of-interest that arise after the proposal is submitted.

11. Collaborative and/or Subcontractual Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with others, such arrangements should be fully explained and justified. In addition, evidence should be provided that the collaborators involved have agreed to render these services. If the need for consultant services is anticipated, the proposal narrative should provide a justification for the use of such services, a statement of work to be performed, a resume or curriculum vita for each consultant, and rate of pay for each consultant. For purposes of proposal development, informal day-to-day contacts between key project personnel and outside experts are not considered to be collaborative arrangements and thus do not need to be detailed.

All anticipated subcontractual arrangements also should be explained and justified in this section. A proposed statement of work and a budget for each arrangement involving the transfer of substantive programmatic work or the providing of financial assistance to a third party must be provided. Agreements between departments or other units of your own institution and minor arrangements with entities outside of your institution (*e.g.,* requests for outside laboratory analyses) are excluded from this requirement.

If you expect to enter into subcontractual arrangements, please note that the provisions contained in 7 CFR part 3019, USDA Uniform Administrative Requirements for Grant and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and the general provisions contained in 7 CFR part 3015.205, USDA Uniform Federal Assistance Regulations, flow down to subrecipients. In addition, required clauses from Sections 40–48 (''Procurement Standards'') and Appendix A (''Contract Provisions'') to 7 CFR part 3019 should be included in final contractual documents, and it is necessary for the subawardee to make a certification relating to debarment/suspension.

12. Budget (Form CSREES–55)

a. *Budget Form.* Prepare the budget, Form CSREES–55, in accordance with instructions provided. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants must also include a budget narrative to justify their budgets (see section b below.)

The following guidelines should be used in developing your proposal budget(s):

1. Salaries and Wages. Salaries and wages are allowable charges and may be requested for personnel who will be working on the project in proportion to the time such personnel will devote to the project. If salary funds are requested, the number of Senior and Other Personnel and the number of CSREES-Funded Work Months must be shown in the spaces provided. Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for time in addition to a regular full-time salary covering the same general period of employment.

Salary funds requested must be consistent with the normal policies of the institution.

2. Fringe Benefits. Funds may be requested for fringe benefit costs if the usual accounting practices of your organization provide that organizational contributions to employee benefits (*e.g.*, social security and retirement) be treated as direct costs. Fringe benefit costs may be included only for those personnel whose salaries are charged as a direct cost to the project.

3. Nonexpendable Equipment. Nonexpendable equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 (or lower depending on institutional policy) or more per unit. As such, items of necessary instrumentation or other nonexpendable equipment should be listed individually by description and estimated cost in the budget narrative. This applies to revised budgets as well, as the equipment item(s) and amount(s) may change.

4. Materials and Supplies. The types of expendable materials and supplies which are required to carry out the project should be indicated in general terms with estimated costs in the budget narrative.

5. Travel. The type and extent of travel and its relationship to project objectives should be described briefly and justified. If travel is proposed, the destination, the specific purpose of the travel, a brief itinerary, inclusive dates of travel, and estimated cost must be provided for each trip. Airfare allowances normally will not exceed round-trip jet economy air accommodations. U.S. flag carriers must be used when available. See 7 CFR Part 3015.205(b)(4) for further guidance.

6. Publication Costs/Page Charges. Include anticipated costs associated with publications in a journal (preparing and publishing results including page charges, necessary illustrations, and the cost of a reasonable number of coverless reprints) and audio-visual materials that will be produced. Photocopying and printing brochure, etc., should be shown in Section I., ''All Other Direct Costs'' of Form CSREES–55.

7. Computer (ADPE) Costs. Reimbursement for the costs of using specialized facilities (such as a university-or department-controlled computer mainframe or data processing center) may be requested if such services are required for completion of the work.

8. All Other Direct Costs. Anticipated direct project charges not included in other budget categories must be itemized with estimated costs and justified in the budget narrative. This also applies to revised budgets, as the item(s) and dollar amount(s) may change. Examples may include space rental at remote locations, subcontractual costs, and charges for consulting services, telephone, facsimile, shipping costs, and fees necessary for laboratory analyses. You are encouraged to consult the ''Instructions for Completing Form CSREES–55, Budget,'' of the Application Kit for detailed guidance relating to this budget category. Form AD–1048 must be completed by each subcontractor or consultant and retained by the grantee.

9. Indirect Costs. Section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310) limits indirect costs for this program to 19 percent of total Federal funds provided under each award. Therefore the recovery of indirect costs under this program may not exceed the lesser of the institution's official negotiated indirect cost rate or the equivalent of 19 percent of total Federal funds awarded. Another method of calculating the maximum allowable is 23.456 percent of the total direct costs. If no rate has been negotiated, a reasonable dollar amount (equivalent to or less than 19 percent of total Federal funds requested) in lieu of indirect costs may be requested, subject to approval by USDA.

b. *Budget Narrative.* All budget categories, excluding Indirect Costs, for which support is requested, must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the Budget Form. Explanations of matching funds or lack there of on commodity-specific projects also are to be included in this section.

c. *Matching Funds.* If an applicant concludes that matching funds are not required as specified under Part I, F, ''Matching Requirements,'' a justification should be included in the budget narrative. CSREES will consider this justification when ascertaining final matching requirements or in determining if required matching can be waived. CSREES retains the right to make final determinations regarding matching requirements.

For those grants requiring matching funds as specified under Part I, F, proposals should include written verification of commitments of matching support (including both cash and in-kind contributions) from third parties. Written verification means:

(a) For any third party cash contributions, a separate pledge agreement for each donation, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) the dollar amount of the cash donation; and (5) a statement that the donor will pay the cash contribution during the grant period; and

(b) For any third party in-kind contributions, a separate pledge agreement for each contribution, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) a good faith estimate of the current fair market value of the third party in-kind contribution; and (5) a statement that the donor will make the contribution during the grant period.

The sources and amount of all matching support from outside the applicant institution should be summarized on a separate page and placed in the proposal immediately following the budget narrative. All pledge agreements must be placed in the proposal immediately following the summary of matching support.

The value of applicant contributions to the project shall be established in accordance with applicable cost principles. Applicants should refer to OMB Circular A–21, Cost Principles for Educational Institutions, for further guidance and other requirements relating to matching and allowable costs.

13. Current and Pending Support (Form CSREES–663)

All proposals must contain Form CSREES–663 listing other current public or private support (including in-house support) to which personnel (*i.e.,* individuals submitting a vitae in response to 9.(c) of this part) identified in the proposal have committed portions of their time, whether or not salary support for person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA

Programs or agencies. Concurrent submission of identical or similar proposals to the possible sponsors will not prejudice proposal review or evaluation by the CSREES for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. Note that the project being proposed should be included in the pending section of the form.

14. Assurance Statement(s), (Form CSREES–662)

A number of situations encountered in the conduct of projects require special assurances, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, it is expected that some applications submitted in response to these guidelines will involve the following:

a. *Recombinant DNA or RNA Research.* As stated in 7 CFR Part 3015.205 (b)(3), all key personnel identified in the proposal and all endorsing officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, ''Guidelines for Research Involving Recombinant DNA Molecules,'' as revised. If your project proposes to use recombinant DNA or RNA techniques, you must so indicate by checking the ''yes'' box in Block 19 of Form CSREES–661 (the Cover Page) and by completing Section A of Form CSREES–662. For applicable proposals recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released.

b. *Animal Care.* Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key project personnel identified in a proposal and all endorsing officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary in 9 CFR Parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals, you should check ''yes'' in block 20 of Form CSREES–661 and complete Section B of Form CSREES–662. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project.

c. *Protection of Human Subjects.* Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. No. 93–348, as amended, and implementing regulations promulgated by the Department under 7 CFR Part 1c. If you propose to use human subjects for experimental purposes in your project, you should check the ''yes'' box in Block 21 of Form CSREES–661 and complete Section C of Form CSREES–662. In the event a project involving human subjects results in a grant award, funds will be released only after the appropriate Institutional Review Board has approved the project.

15. Certifications

Note that by signing Form CSREES–661 the applicant is providing the certifications required by 7 CFR Part 3017, as amended, regarding Debarment and Suspension and Drug Free Workplace, and 7 CFR Part 3018, regarding Lobbying. The certification forms are included in the application package for informational purposes only. These forms should not be submitted with the proposal since by signing Form CSREES–661 your organization is providing the required certifications. If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048 to the grantee organization for retention in their records. This form should not be submitted to USDA.

16. Compliance with the National Environmental Policy Act (NEPA) (Form CSREES–1234)

As outlined in 7 CFR part 3407 (i.e., the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In some cases, however, the preparation of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–1234, ''NEPA Exclusions Form,'' must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefore. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion must be identified. Form CSREES–1234 and supporting documentation should be included as the last page of this proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

C. Submission of Proposals

1. When to Submit (Deadline Date)

Proposals must be received by COB on May 14, 2001 (5:00 p.m. EST). Proposals received after this date will not be considered for funding.

2. What to Submit

An original and 14 copies must be submitted. In addition submit 10 copies of the proposal's Project Summary. All copies of the proposals and the Project Summaries must be submitted in one package.

3. Where to Submit

Applicants are strongly encouraged to submit completed proposals via overnight mail or delivery service to ensure timely receipt by the USDA. The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Integrated Research, Education, and Extension Competitive Grants Program—Water Quality; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Waterfront Center, Room 1307; 800 9th Street, SW.; Washington, DC 20024.

Proposals sent via the U.S. Postal Service must be sent to the following address: Integrated Research, Education, and Extension Competitive Grants Program—Water Quality; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2245.

D. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged by e-mail. Therefore, applicants are strongly encouraged to provide e-mail addresses, where designated, on the Form CSREES–661. If the applicant's e-mail address is not indicated, CSREES will acknowledge receipt of proposal by letter.

Once the proposal has been assigned an identification number, please cite that number on all future correspondence. If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the Program Director.

Part IV—Review Process

A. General

Each proposal will be evaluated in a 2-part process. First, each proposal will be screened to ensure that it meets the administrative requirements as set forth in this request for proposals. Second, proposals that meet these requirements will be technically evaluated by a peer review panel.

Peer review panel members will be selected based upon their training and experience in relevant scientific, education or extension fields taking into account the following factors: (a) The level of formal scientific, technical education, and extension experience of the individual, as well as the extent to which an individual is engaged in relevant research, education and/or extension activities; (b) the need to include as peer reviewers experts from various areas of specialization within relevant scientific, education, and extension fields; (c) the need to include as reviewers other experts (e.g., producers, range or forest managers/operators, and consumers) who can assess relevance of the proposals to targeted audiences and to program needs; (d) the need to include as peer reviewers experts from a variety of organizational types (e.g., colleges, universities, industry, state and Federal agencies, private profit and non-profit organizations), and geographic locations; (e) the need to maintain a balanced composition of peer review groups with regard to minority and female representation and an equitable age distribution; and (f) the need to include members that can judge the effective usefulness to producers and the general public of each proposal.

B. Evaluation Criteria

Technical merit, relevance to program goals and potential impact will be evaluated for each proposal. Proposals must show evidence of strength in all of these areas to be rated highly for funding. Specific criteria for these proposal attributes are listed below.

(1) Technical merit of all aspects of the proposal, including research, education and extension components.

(a) Conceptual adequacy of overall approach;

(b) Extent to which proposed work addresses identified stakeholder needs;

(c) Conceptual adequacy of hypothesis or hypotheses on which plan is based;

(d) Suitability and feasibility of the methodology for conducting the work;

(e) Time allocated for attainment of objectives;

(f) Qualifications of project personnel;

(g) Institutional experience and competence in the identified area of work;

(h) Adequacy of available support personnel, equipment, and facilities;

(i) Extent to which proposed work integrates research, education and extension; and

(j) Suitability and feasibility of the methodology for evaluating extension and education activities.

(2) Relevancy to Program Goals and Potential Impact.

(a) Relationship of project objectives to national issues and objectives;

(b) Regional or national magnitude of problem addressed;

(c) Evidence of partnerships with other disciplines and institutions;

(d) Extent to which end users are involved in problem identification, planning, implementation and evaluation;

(e) Probability of success of the project; and

(f) Extent to which potential impact can be documented.

The National Facilitation proposals and Regional Water Quality Coordination proposals will also be judged on the quality of the management plan that is proposed.

Priority will be given for integrated, multifunctional research, education, and extension projects.

C. Conflicts-of-Interest and Confidentiality

During the peer evaluation process, extreme care will be taken to prevent any actual or perceived conflicts-of-interest that may impact review or evaluation. For the purpose of determining conflicts-of-interest, the academic and administrative autonomy of an institution shall be determined by reference to the 2000 Higher Education Directory, published by Higher Education Publications, Inc., 6400 Arlington Boulevard, Suite 648, Falls Church, Virginia 22042. Phone: (703) 532–2305.

Names of submitting institutions and individuals, as well as proposal content and peer evaluations, will be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of peer reviewers will remain confidential throughout the entire review process. Therefore, the names of the reviewers will not be released to applicants. At the end of the fiscal year, names of panelists will be made available in such a way that the panelists cannot be identified with the review of any particular proposal.

Part V—Grant Awards

A. General

Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious under the procedures set forth in this RFP. The date specified by the awarding official of CSREES as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this RFP shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (parts 3015 and 3019 of 7 CFR).

B. Funding Mechanisms

The two mechanisms by which grants may be awarded are as follows:

(1) Standard grant. This is a funding mechanism whereby the Department agrees to support a specified level of effort for a predetermined time period without the announced intention of providing additional support at a future date.

(2) Continuation grant. This is a funding mechanism whereby the Department agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support

will be in the best interests of the Federal government and the public. This kind of mechanism normally will be awarded for an initial one-year period, and any subsequent continuation project grants will be awarded in one-year increments. The award of a continuation project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. Unless prescribed otherwise by CSREES, a grantee must submit a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Decisions regarding continued support and the actual funding levels of such support in future years usually will be made administratively after consideration of such factors as the grantee's progress and management practices and the availability of funds. Since initial peer reviews are based upon the full term and scope of the original application, additional evaluations of this type generally are not required prior to successive years' support. However, in unusual cases (*e.g.*, when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

C. Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this RFP, if such information has not been provided previously under this or another CSREES program. CSREES will provide copies of forms recommended for use in fulfilling these requirements as part of the preaward process.

D. Grant Award Document and Notice of Grant Award

The grant award document shall include at a minimum the following:

(1) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for proposals;

(2) Title of project;

(3) Name(s) and address(es) of PI/PD's chosen to direct and control approved activities;

(4) Identifying grant number assigned by the Department;

(5) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(6) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(7) Legal authority(ies) under which the grant is awarded;

(8) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(9) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

Part VI—Additional Information

A. Access To Review Information

Copies of summary reviews, not including the identity of reviewers, will be sent to the applicant PI/PD after the review process has been completed.

B. Use of Funds; Changes

(1) Delegation of Fiscal Responsibility

Unless the terms and conditions of the grant state otherwise, the grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(2) Changes in Project Plans

(a) The permissible changes by the grantee, PI/PD(s), or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the PI/PD(s) are uncertain as to whether a change complies with this provision, the question must be referred to the CSREES Authorized Departmental Officer (ADO) for a final determination.

(b) Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(c) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

(d) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the ADO prior to effecting such transfers, unless prescribed otherwise in the terms and conditions of the grant.

(e) Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the ADO determines may be necessary to complete or fulfill the purposes of an approved project, but in no case shall the total project period exceed five years. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO, unless prescribed otherwise in the terms and conditions of a grant.

(f) Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the grant award.

C. Expected Program Outputs and Reporting Requirements

It is expected that outputs from successful projects will include: the development of watershed management partnerships, increased involvement of community and business sectors in watershed restoration and management, enhanced understanding of regionally-appropriate watershed management practices, increased coordination and partnership between universities and other Federal research and management agencies, and the establishment and maintenance of monitoring and assessment activities related to the agricultural-water quality interface.

Successful projects should describe how they will measure specific improvements in the overall quality of water resources. Additionally, projects should describe all measureable outcomes and results and where appropriate, how they will evaluate the effectiveness of extension and education programs.

All projects selected for award will be required to deliver metadata and annual reports, a final summary report, a bibliography of publications and training materials resulting from support, and an impacts analysis. All reports will be geo-referenced to the

watersheds where activities were performed. The final summary report must include total funding (Federal, matching and other) and a listing of students who worked on the project (report graduate degrees awarded and undergraduates trained).

The grantee must prepare an annual report that details all significant activities towards achieving the goals and objectives of the project. The narrative should be succinct and be no longer than 10 pages, using 12-point, single-spaced type. A budget summary should be attached to this report, which will provide an overview of all monies spent during the reporting period.

D. Applicable Federal Statutes and Regulations

Several Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include, but are not limited to:

7 CFR part 1.1—USDA implementation of the Freedom of Information Act.

7 CFR part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (*i.e.*, OMB Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. No. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Organizations.

7 CFR part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR part 15b (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of CSREES transactions, available to the public upon specific request. Information that the Secretary determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked within the proposal. The original copy of a proposal that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, this 7th day of March 2001.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 01–6180 Filed 3–12–01; 8:45 am]

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Federal Register

Tuesday,
March 13, 2001

Part V

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Integrated Research, Education, and Extension Competitive Grants Program—Pest Management: Request for Proposals and Request for Input; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Integrated Research, Education, and Extension Competitive Grants Program—Pest Management: Request for Proposals and Request for Input

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of request for proposals and request for input.

SUMMARY: The Cooperative State Research, Education and Extension Service (CSREES) announces the availability of grant funds and requests proposals for the Integrated Research, Education, and Extension Competitive Grants Program—Pest Management for fiscal year (FY) 2001 to support integrated, multifunctional agricultural research, extension, and education activities that address complex pest management priorities in United States agriculture, which can most properly be addressed by multifunctional and multidisciplinary projects incorporating research, extension, and education activities. The Integrated Research, Education, and Extension Competitive Grants Program—Pest Management currently has five program components: Crops at Risk from FQPA Implementation (CAR); FQPA Risk Avoidance and Mitigation for Major Food Crop Systems (RAMP); Methyl Bromide Transitions (MBT); Organic Transition (ORG); and Pest Management Centers. The amount available for support of this program in FY 2001 is approximately $13,242,634 of which a portion will be used to fund the second year of continuation grants for the Pest Management Centers that were awarded in FY 2000 for three years (FY 2000–FY 2002). As a result, approximately $8,929,112 will be made available to fund new grant proposals in FY 2001.

This notice sets out the objectives for Pest Management projects, the eligibility criteria for projects and applicants, the application procedures, and the set of instructions needed to apply for a Pest Management grant under this authority.

By this notice, CSREES additionally solicits stakeholder input from any interested party regarding the FY 2001 Integrated Research, Education, and Extension Competitive Grants Program—Pest Management for use in the development of any future requests for proposals (RFP's) for this program.

DATES: Proposals must be received by close of business (COB) on May 14, 2001 (5:00 p.m. EST). Proposals received after this date will not be considered for funding. Comments regarding this RFP are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Integrated Research, Education, and Extension Competitive Grants Program—Pest Management; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024.

Proposals sent via the U.S. Postal Service must be sent to the following address: Integrated Research, Education, and Extension Competitive Grants Program—Pest Management; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

Written user comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA–CSREES; STOP 2299; 1400 Independence Avenue, SW.; Washington, DC 20250–2299; or via e-mail to: RFP-OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year of the RFP to which you are responding.

FOR FURTHER INFORMATION CONTACT: Applicants and other interested parties are encouraged to contact the following individuals: CAR: Dr. Rick Meyer; National Program Leader; Plant and Animal Systems Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, SW.; Washington, DC 20250–2220; Telephone: (202) 401–4891; Fax: (202) 401–4888; e-mail address: hmeyer@reeusda.gov; RAMP: Dr. Michael Fitzner; National Program Leader; Plant and Animal Systems Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, SW.; Washington, DC 20250–2220; Telephone: (202) 401–4939; Fax: 202–401–4888; e-mail address: mfitzner@reeusda.gov; MBT: Dr. Thomas Bewick; National Program Leader; Plant and Animal Systems Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, SW.; Washington, DC 20250–2220; Telephone: (202) 401–3356; Fax: (202) 401–4888; e-mail address: tbewick@reeusda.gov; and ORG: Dr. Anne Bertinuson; Program Specialist; Plant and Animal Systems Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, SW.; Washington, DC 20250–2220; Telephone: (202) 401–6825; Fax: (202) 401–5179; e-mail address: abertinuson@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

Stakeholder Input
Catalog of Federal Domestic Assistance
Part I—General Information
- A. Legislative Authority and Background
- B. Purpose, Priorities, and Fund Availability
- C. Definitions
- D. Eligibility
- E. Types of Proposals
- F. Matching Requirements
- G. Funding Restrictions

Part II—Program Description
- A. Project Types
- B. Program Area Description

Part III—Preparation of a Proposal
- A. Program Application Materials
- B. Content of Proposals
- C. Submission of Proposals
- D. Acknowledgment of Proposals

Part IV—Review Process
- A. General
- B. Evaluation Criteria
- C. Conflicts-of-Interest and Confidentiality

Part V—Grant Awards
- A. General
- B. Funding Mechanisms
- C. Organizational Management Information
- D. Grant Award Document and Notice of Grant Award

Part VI—Additional Information
- A. Access to Review Information
- B. Use of Funds; Changes
- C. Expected Program Outputs and Reporting Requirements
- D. Applicable Federal Statutes and Regulations
- E. Confidential Aspects of Proposals and Awards
- F. Regulatory Information

Stakeholder Input

CSREES is soliciting comments regarding this RFP from any interested party. These comments will be considered in the development of any future RFP for the program. Such comments will be used to meet the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(c)(2)). This section requires the Secretary to solicit and consider input on a current RFP from persons who conduct or use agricultural research,

education and extension for use in formulating future RFP's for competitive programs. Comments should be submitted as provided for in the **ADDRESSES** and **DATES** portions of this Notice.

The FY 2000 RFP for Integrated Research, Education, and Extension Competitive Grants Program—Pest Management which was published in the **Federal Register** on April 7, 2000 [65 FR 18822—18835] solicited comments on the RFP from any interested party to be used in the development of future RFP's. One comment was received and considered in the development of the FY 2001 RFP.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under 10.303, Integrated Research, Education, and Extension Competitive Grants Program.

Part I—General Information

A. Legislative Authority and Background

Section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (7 U.S.C. 7626) authorized the Secretary of Agriculture to establish a research, education, and extension competitive grants program to provide funding for integrated, multifunctional agricultural research, extension, and education activities. Subject to the availability of appropriations to carry out this program, the Secretary may award grants to colleges and universities (as defined by 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA) (7 U.S.C. 3103)) on a competitive basis for integrated research, education, and extension projects. Grants are to be awarded to address priorities in United States agriculture that involve integrated research, education, and extension activities as determined by the Secretary in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board.

On November 19, 1999, the Secretary published in the **Federal Register** [64 FR 63560] a notice that the administration of this grant program had been delegated to the Cooperative State Research, Education, and Extension Service (CSREES). This notice also solicited public comment from persons who use or conduct research, extension, or education regarding the priorities to be addressed by this new program. In addition, this notice announced a public meeting to obtain comments to use in developing the proposed rule and RFP's for this new grant program. The public meeting was held on December 6, 1999.

All the comments and the official transcript of the meeting were made available for review on the CSREES web page. The comments and testimonies from the December 6, 1999, public meeting were considered in the formulation of the FY 2000 RFP and FY 2001 RFP. Both RFP's were developed in consultation with the Advisory Board.

The Organic Transition Program is added to the FY 2001 RFP due to the appropriation of Section 406 funds for this purpose in FY 2001. This program was not directly addressed in the original **Federal Register** Notice or at the December 6, 1999, public meeting. However, priorities of organic producers are identified through ongoing interactions with institutions such as the Organic Farming Research Foundation (OFRF), the Rodale Institute, and the Organic Crop Improvement Association, and individual producers. The biennial OFRF National Organic Farmers Survey, which receives input from the Economic Research Service and the National Agricultural Statistics Service, also serves as a reference.

The entire Integrated Research, Education, and Extension Competitive Grants Program is funded in FY 2001 at $39,838,535 (after deduction for administrative expenses) for the following integrated activities: Water Quality ($12,348,773), Food Safety ($14,247,128), and the Pest Management component which includes Pesticide Impact Assessment ($4,313,522), Crops at Risk from Food Quality and Protection Act (FQPA) Implementation ($1,424,858), FQPA Risk Mitigation Program for Major Food Crop Systems ($4,654,537), Methyl Bromide Transitions ($2,374,764), and Organic Transition ($474,953). There will be four RFP's for this program. The Food Safety Programs will have one RFP and the Water Quality program will have two RFP's, while the latter five programs will be announced as one RFP for Pest Management. This notice announces and describes the Pest Management component of the Program.

CSREES will administer the Integrated Research, Education, and Extension Competitive Grants Program by determining priorities in United States agriculture through Agency stakeholder input processes and in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board. Each RFP for the different program areas (e.g., Water Quality and Food Safety) will be developed each fiscal year based on these established priorities and the resulting approaches to solving these critical agricultural issues. Although this overall grant program seeks to solve critical agricultural issues through an integration of research, education, and extension activities, a component of a RFP, depending on the priority being addressed and/or the stage at which the priority is being addressed, may request proposals that are research, education, or extension only, or a combination thereof. However, the overall overarching approach to solving the critical agricultural issue, priority, or problem will be through an integration of research, education, and extension activities within each individual program area.

B. Purpose, Priorities, and Fund Availability

The components of the Integrated Competitive Grants Program—Pest Management to be funded in FY 2001 are Crops at Risk from FQPA Implementation program (CAR); FQPA Risk Avoidance and Mitigation for Major Food Crop Systems (RAMP); Methyl Bromide Transitions Program (MBTP); Organic Transitions Program (ORG); and Pesticide Impact Assessment Program (hereafter referred to as ''Pest Management Centers''). Please note that proposals for the Pest Management Centers component will not be solicited this year in that four centers were established in FY 2000 and are ongoing through FY 2002.

The five components of the Integrated Research, Education, and Extension Competitive Grants Program—Pest Management will support a wide range of complementary research, education, and extension activities. Together, these five components support activities to assess the use and efficacy of available pest management tools, develop and demonstrate the efficacy of reduced-risk pesticides and other pest management alternatives, and identify possible transition and mitigation strategies that serve as viable pest management options for crops and agro-ecosystems at risk.

Priority will be given for integrated, multifunctional research, education, and extension projects (i.e., those that contain research, education, and extension components).

This integrated grants program creates opportunities for fruitful new collaborations between individuals and institutions which can address problems in new ways and/or improve communication with under-served or hard-to-reach audiences. In order to

fully realize these potential benefits, CSREES strongly encourages applicants to develop proposals that include:

(1) Integrated activities that include collaboration with small- or mid-sized, accredited colleges and universities;

(2) Integrated activities that include collaboration with historically black colleges and universities, Hispanic-serving institutions, tribal colleges, and/or other institutions that serve high-risk, under-served, or hard-to-reach audiences; or

(3) International partnerships, linkages, and exchanges that contribute to addressing U.S. national pest management issues.

By integrating these five separate program components into a single competitive grants program, CSREES has responded to stakeholder suggestions that the Agency develop a coordinated program to address pest management challenges that face the Nation in the short- and long-terms. Projects supported by the five components of the Integrated Research, Education, and Extension Competitive Grants Program—Pest Management will support a wide range of complementary research, education, and extension activities. Together, these five components support activities to assess the use and efficacy of available pest management tools, develop and demonstrate the efficacy of reduced-risk pesticides and other pest management alternatives, and identify possible transition and mitigation strategies that serve as viable pest management options for crops and agro-ecosystems at risk. CSREES also expects that Integrated Research, Education, and Extension Competitive Grants Program—Pest Management projects will complement other CSREES pest management programs such as the Pest Management Alternatives Program (PMAP), the Regional Integrated Pest Management Grants Program (RIPM), the Pesticide Applicator Training program (PAT), the Minor Crops Program (IR–4), and to pest management activities funded under the regional Sustainable Agriculture Research and Education program (SARE) and the National Research Initiative (NRI).

There is no commitment by USDA to fund any particular proposal or to make a specific number of awards. Approximately $13 million will be available to fund proposals in FY 2001 distributed among the program components as follows: CAR—$1,424,858, RAMP—$4,654,537, MBT—$2,374,764, ORG—$474,953, and Pest Management Centers—$4,313,522. However, applications are only being solicited under this RFP (FY 2001) for CAR, RAMP, MBT, and ORG. No applications are being solicited this year for the Pest Management Centers as those were awarded in FY 2000 as continuation grants for a period of three years (i.e., FYs 2000, 2001 and 2002).

C. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable:

(1) *Administrator* means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved is delegated.

(2) *Authorized departmental officer* means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) *Authorized organizational representative* means the president, director, or chief executive officer or other designated official of the applicant organization who has the authority to commit the resources of the organization.

(4) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) *Cash contributions* means the applicant's cash outlay, including the outlay of money contributed to the applicant by non-Federal third parties.

(6) *Department* or *USDA* means the United States Department of Agriculture.

(7) *Education activity* means formal classroom instruction, laboratory instruction, and practicum experience in the food and agricultural sciences and other related matters such as faculty development, student recruitment and services, curriculum development, instructional materials and equipment, and innovative teaching methodologies.

(8) *Extension activity* means an act or process that delivers science-based knowledge and informal educational programs to people, enabling them to make practical decisions.

(9) *Grant* means the award by the Secretary of funds to an eligible organization or individual to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to accomplish the purpose of the program as identified in these guidelines.

(10) *Grantee* means an organization designated in the grant award document as the responsible legal entity to which a grant is awarded.

(11) *Integrated* means to bring the three components of the agricultural knowledge system (research, education, and extension) together around a problem area or activity.

(12) *Matching* means that portion of allowable project costs not borne by the Federal Government, including the value of in-kind contributions.

(13) *Peer review* means an evaluation of a proposed project for scientific or technical quality and relevance performed by experts with the scientific knowledge and technical skills to conduct the proposed work or to give expert advice on the merits of a proposal.

(14) *Principal investigator/Project director* means the single individual designated in the grant application and approved by the Secretary who is responsible for the direction and management of the project.

(15) *Prior approval* means written approval evidencing prior consent by an authorized departmental officer as defined in (2) above.

(16) *Project* means the particular activity within the scope of the program supported by a grant award.

(17) *Project period* means the period, as stated in the award document, during which Federal sponsorship begins and ends.

(18) *Research activity* means a scientific investigation or inquiry that results in the generation of knowledge.

(19) *Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved is delegated.

(20) *Third party in-kind contributions* means non-cash contributions of property or services provided by non-Federal third parties, including real property, equipment, supplies and other expendable property, directly benefitting and specifically identifiable to a funded project or program.

(21) *Total integrated, multifunctional research, education, and extension approach* means that the combination of grants (although the individual grants may involve only research, education, or extension activities or a combination thereof) awarded under the fiscal year's program components will work together to address the priorities in United States agriculture as determined by the Secretary of Agriculture in consultation with the Advisory Board, that involve integrated research, extension, and education activities.

D. Eligibility

Proposals may be submitted by colleges and universities as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). The terms ''college'' and

''university'' mean an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association. Although an applicant may be eligible based on its status as one of these entities, there are factors which may exclude an applicant from receiving Federal financial and nonfinancial assistance and benefits under this program (e.g., debarment or suspension of an individual involved or a determination that an applicant is not responsible based on submitted organizational management information). Eligible applicants may subcontract to organizations not eligible under these requirements.

Please note that a research foundation maintained by a college or university is not eligible to receive an award under this program. Proposals received from research foundations will not be considered for funding.

E. Types of Proposals

In FY 2001, projects under the Integrated Research, Education, and Extension Competitive Grants Program authority may be submitted as one of the two types of proposals described below:

(1) New proposal. This is a project proposal that has not been previously submitted to the Integrated Research, Education, and Extension Competitive Grants Program. All new proposals will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

(2) Resubmitted proposal. This is a proposal that had previously been submitted to the Integrated Research, Education, and Extension Competitive Grants Program but not funded. The resubmitted proposal should clearly indicate the changes that have been made in the project proposal.

Further, a clear statement acknowledging comments from the previous reviewers, indicating revisions, rebuttals, etc., can positively influence the review of the proposal. Therefore, for resubmitted proposals, the investigator(s) must respond to the previous panel summary on no more than one page, titled ''RESPONSE TO PREVIOUS REVIEW,'' which is to be placed directly after the Project Summary as described in Part III—Preparation of a Proposal. Resubmitted proposals will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

F. Matching Requirements

1. General Requirement

If a grant provides a particular benefit to a specific agricultural commodity, the grant recipient is required to provide funds or in-kind support to match the amount of the grant funds provided. See section 12.c. on ''Matching Funds'' under Part III, B, ''Content of Proposals'' for more details.

2. Waiver

CSREES may waive the matching funds requirement specified in the above paragraph for a grant if CSREES determines that (a) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or (b) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

G. Funding Restrictions

CSREES has determined that grant funds awarded under this authority may not be used for the renovation or refurbishment of research, education, or extension space; the purchase or installation of fixed equipment in such space; or the planning, repair, rehabilitation, acquisition, or construction of buildings or facilities.

Part II—Program Description

A. Project Types

Approximately $1,424,858 is available for CAR projects in FY 2001. Proposals should be between two to four years in duration with a budget of not more than $200,000 per year.

Approximately $4,654,537 is available for RAMP projects in FY 2001. Proposals can be up to five years in duration with a maximum budget of $500,000 per year.

Approximately $2,374,764 is available for MBT projects in FY 2001. It is anticipated that 12–15 grants of up to two years in duration will be awarded in this program component.

Approximately $474,953 is available for ORG projects in FY 2001. It is anticipated that three to five grants of up to four years in duration will be awarded in this program component.

Approximately $4,313,522 is available for Pest Management Center projects funded in FY 2000. Since these Pest Management Centers were funded as continuation grants for FY 2001 and FY 2002, no new applications are being solicited in FY 2001 for Pest Management Centers projects.

Grants awarded under the Program Area Descriptions of CAR, RAMP, MBT and ORG (as described in this RFP) will be issued as ''New Grant'' instruments and usually will be awarded as ''Standard Grants.''

B. Program Area Description

In FY 2001, proposals are being solicited in four program areas for the Integrated Research, Education, and Extension Competitive Grants Program—Pest Management: Crops at Risk from FQPA Implementation (CAR); FQPA Risk Avoidance and Mitigation for Major Food Crop Systems (RAMP); Methyl Bromide Transitions (MBT); and Organic Transition (ORG). Each component has a specific focus, and it is essential that applicants read the program area description carefully when preparing proposals.

Two program areas, Crops at Risk from FQPA Implementation (CAR) and FQPA Risk Avoidance and Mitigation for Major Food Crop Systems (RAMP), address needs created by the implementation of the Food Quality Protection Act (FQPA) of 1996. The following background information applies to both of these programs.

The Office of Pesticide Management of the Environmental Protection Agency (EPA) maintains a web site (http://www.epa.gov/pesticides) which is a clearinghouse for information on pesticide tolerance assessment and reregistration under FQPA, as well as information on registered pesticides, including biopesticides. EPA also issues an electronic newsletter that will announce updates to pesticide registration status. Information on subscribing to this electronic newsletter is also available at the above web site. In preparing proposals for CAR and RAMP, applicants should use information from EPA to identify at-risk pesticides that may affect pest management practices for their commodity of interest. Applicants should also identify recently registered pesticides or those under new registration review.

Proposals are solicited for the following program areas:

(1) Crops at Risk from FQPA Implementation (CAR) (Program Area 112.A)

(Maximum award: $200,000 per year for two to four years).

The Crops at Risk from FQPA Implementation (CAR) program is an intermediate-term (two to four years) research, education, and extension competitive grants program with at-risk crops or cropping systems as the focal point. Several crops and cropping systems face potentially severe economic impacts as a result of the possible restrictions or elimination of certain pesticides resulting from implementation of the Food Quality Protection Act (FQPA) of 1996 and other regulatory actions. In the short-term, small-acreage fruit and vegetable crops are most vulnerable. However, many more crops, including large-acreage grain, forage and fiber crops, will be impacted during the pesticide review process. Development of new multiple-tactic pest management strategies designed to assist producers during the transition is the goal of this program component.

Specific Objectives

(a) Evaluate new approaches to pest management techniques and technology (e.g., rates, timing, pre-harvest intervals, application methods and equipment, and post-harvest treatment) that could reduce or eliminate pesticide residues of concern or the effects of these residues;

(b) Develop new pest management tactics based on alternative technologies, including products of genetic engineering, biological organisms, biological pesticides, new chemical pesticides, and cultural practices; and

(c) Demonstrate and describe how new tactics can be economically and practically integrated into pest management programs for individual crops.

Proposals that address priorities established by stakeholders representing an entire crop production region, consider crosscutting challenges, and show evidence of multi-state or within-state cooperation regarding research, education, and extension will be given preference.

All proposals should include an extension/outreach component to promote the exchange of pest management information among researchers, extension agents, producers, and commodity groups as it relates to the project.

(2) FQPA Risk Avoidance and Mitigation for Major Food Crop Systems Program (RAMP) (Program Area 112.B)

(Maximum award: $500,000 per year for up to five years).

The FQPA Risk Avoidance and Mitigation for Major Food Crop Systems Program (RAMP) is a long-term (up to five years) research, education, and extension competitive grants program to develop reduced risk pest management strategies for agro-ecosystems or cropping systems. Global markets for food and grain products demand high quality at competitive prices. Growers are faced with meeting market demands and ever-increasing production costs coupled with decreasing or unstable commodity prices. Added to these constraints are concerns posed by implementation of regulatory actions over the next decade. Many of the pest management tools growers have depended on in the past may be restricted or eliminated. Growers face uncertainty regarding which pest management tactics will continue to be available and how to incorporate new technologies into their production systems (e.g., bio-based pest management alternatives, bioengineered crop innovations, and precision agriculture). There is a critical need to devise pest management systems that consider all aspects of crop production.

Projects supported by RAMP will have a food, fiber, or grain production system focus and may include consideration of food safety, occupational safety, water quality and other environmental concerns. The RAMP program area will address the major acreage cropping systems including, but not limited to, corn, soybean, wheat, cotton and rice, as well as, the fruits and vegetables most important in the human diet, especially the diets of infants and children. Emphasis will be placed on development and implementation of new and innovative pest management systems designed to maintain crop productivity and profitability while addressing environmental quality and human health concerns. The goal of this long-term approach is to eliminate or minimize pesticide residues of concern on foods, in drinking water, and in the environment. This program also supports projects to reduce occupational risk for producers and their employees. These will be long-term projects and will evolve from in-depth discussions of the production system's pest management needs and priorities identified by stakeholders. Projects are intended to enhance stability and sustainability of agricultural production systems and will be multi-state or regional in scale. Typically they will involve multiple cropping systems that define an agro-ecosystem. A major goal of this effort will be the development of pest management systems that further the advanced understanding of cropping system biology and ecology.

Specific Objectives

(a) Develop methods of pest management that reduce or eliminate risks associated with pesticide residues; and

(b) Develop and implement information intensive approaches to pest management based on a more complete understanding of crop and pest biology, their interactions and mutual impacts, and factors impacting the stability of pest management systems in major cropping systems.

Proposals that strive to maintain crop economic viability based on a diverse bio-based pest management system are encouraged. Proposals should address priorities established by stakeholders representing an entire cropping system and consider crosscutting challenges, and must show evidence of multi-state and multi-disciplinary cooperation involving research, education, and extension. Proposals should catalog and review the pest management tactics currently being used in the targeted cropping system, then define opportunities for new pest management approaches. All proposals should include an extension/outreach component to promote the exchange of pest management information among researchers, extension agents, producers and commodity groups as it relates to the project. Outreach efforts can make use of publications, website development, field days, workshops or other relevant planning and outreach activities. Successful proposals will provide milestones and independently verifiable indicators that can be used to measure progress and impact across a range of ecological, agronomic and economic criteria. Budgetary provisions should be made to support a formal stakeholder review after the second field season and at the end of the project.

(3) Methyl Bromide Transitions Program (MBT) (Progam Area 112.C)

(No maximum award and up to two years; however, it is anticipated that 12–15 grants will be funded).

The phase-out of methyl bromide is required under Title IV of the Clean Air Act (as amended in 1990) based on its projected ozone-depleting potential. In October 1998, the Clean Air Act was amended to change the phase-out date to 2005, in harmonization with the date

agreed to in the Montreal Protocol. Further information on the phase-out of methyl bromide is available on the EPA website at http://www.epa.gov/ozone/mbr/harmoniz.html.The Methyl Bromide Transitions Program (MBT) supports the discovery and implementation of practical pest management alternatives for commodities affected by the phase-out of methyl bromide. Projects supported by MBT will focus on short-to intermediate-term solutions for all commodities at risk using presently available or newly developed pest management technologies and practices. Since alternatives to methyl bromide that have thus far been developed require different pest management strategies than those used for methyl bromide alone, projects supported by MBT will emphasize the development and implementation of integrated management approaches. This includes increased research, education and extension activities on all commodities at risk, involving field trials and other demonstration projects that enhance the adoption of pest management alternatives for affected commodities.

Specific Objectives

(a) Develop integrated research, education, and extension approaches as methyl bromide alternatives on strawberry, tomato, other vegetables, fruits and nuts;

(b) Develop integrated research, education, and extension approaches as methyl bromide alternatives for floral, forestry and general nursery production to assure pest- and pathogen-free rootstocks; and

(c) Develop extension activities to implement pest management alternatives, including field trials and other demonstration projects that enhance producer adoption of alternative management practices that increase the transfer of results to growers.

Proposals that address priorities established by stakeholders, consider crosscutting challenges, and show evidence of multi-state or within-state cooperation involving research, education, and extension will be given preference.

(4) Organic Transition (ORG) (Program Area 112.E)

(No maximum award and up to four years; however, it is anticipated that three to five grants will be funded).

Organic farming became one of the fastest growing segments of U.S. agriculture during the 1990's. Farmers cite many reasons for adopting organic practices, including economic (i.e., to lower input costs, to capture high value markets), environmental (i.e., to conserve nonrenewable resources, to be an environmental steward) and health (i.e., to reduce exposure of themselves and their families to agrochemicals). Converting to organic production is not as simple as eliminating chemical inputs. Organic farming is not simply the avoidance of conventional chemical inputs, nor is it the substitution of natural inputs for synthetic ones. Organic farmers implement a wide range of strategies to develop biological diversity and maintain and replenish soil fertility.

Making the transition to organic production generally requires farmers to absorb a great deal of new information, and to experiment with combinations of techniques to meet their needs. As documented in a 1997 report from the Organic Farming Research Foundation (OFRF), ''Searching for the O-Word: An Analysis of the USDA Current Research Information System (CRIS) for Pertinence to Organic Farming'' (http://www.ofrf.org/policy/oword1.html), very little *systems* research has been done on organic farming in the United States. Research on agricultural production components such as biocontrol and cropping systems has been of limited value to organic farmers, since the components are generally not developed and tested in an organic agro-ecosystem, and research results and recommendations thus can not be applied directly to organic farms.

The purpose of this program is to assist farmers in successfully adopting organic practices by supporting systems research on organic farming combined with outreach and education programs to transfer technologies to farmers *in the near term.* It is anticipated that the types of research to be supported will be very applied. Field work for this program must be done in an organic agro-ecosystem. Applicants are reminded that since some practices and inputs are unallowable in certified organic production, they should ensure that their planned work is compatible with organic production. The USDA National Organic Program (http://www.ams.usda.gov/nop/) is a good source of organic production information. Because farmer involvement is critical to the success of this program, and to the dissemination of research findings, priority will be given to proposals which include farmers as partners in planning, implementing, and evaluating project activities.

Priorities for funding in FY 2001 were developed by considering the priorities of complementary programs, such as SARE and the Initiative for Future Agriculture and Food Systems, and identified stakeholder needs in the context of the limited funds available for this program in this fiscal year. OFRF conducts a biennial survey of research needs of organic farmers. A summary of the most recent survey is available online at: http://www.ofrf.org/survey/1997.html. As in two previous surveys, both certified and transitioning organic farmers reported that weed control is their number one need.

Specific Objective

The specific objectives of the ORG Program is to support projects that perform systems research on ecologically-based weed management combined with outreach and education programs to share information and methods with farmers *in the near term.*

Ecologically-based approaches to weed management include, but are not limited to, cultural effects (i.e., crop rotation and soil fertility) on weed pressure and species mix, timing and type of tillage, flaming or burning, controlling weeds that reproduce vegetatively, use of allelopathic covercrops and green manure crops, biocontrol insects or microorganisms, residue management, managing weed seed banks, and use of livestock to control weeds.

Successful organic agriculture incorporates a mix of strategies in general production management. In terms of weed management, organic producers are not seeking a ''magic bullet'' targeted to a specific weed pest. They need integrated strategies that address overall weed management in a manner appropriate for their production system. The problems and solutions for range, field crops, row crops or orchards may not be the same, even given the presence of the same weed(s) in different production systems.

In describing proposed work for this program, applicants should clearly state the type of production system for which their management strategies are appropriate. They should demonstrate the need for the proposed work, both in terms of stakeholder needs, and the magnitude of the problem. The magnitude of the problem should be related to current numbers of producers and acres affected, as well as potential for increased production in the area of study which may result from developing and demonstrating ecologically-based pest management strategies.

An outcome-oriented plan for disseminating information derived from the proposed work should be an integral part of the project. This information may include analysis of results of field

research, farmers' evaluations of the weed management strategies developed, or increased understanding of how to perform successful on-farm research. The intent of this outreach effort should be to educate the audience(s) and have them modify their practices accordingly, and thus a plan for evaluating the outreach component must be included.

Priority for funding will be given to proposals that have the potential for significant impact, based on: (a) The magnitude of the problem they address, and (b) inclusion of plans for outreach and education likely to lead to improved knowledge and skills among targeted populations.

The focus of this program is on a systems approach to organic agriculture. Proposals focusing solely on the biology of weedy and invasive plants will not be accepted for this program. Applicants should consider submitting proposals to the National Research Initiative (http://www.reeusda.gov/nri), which has several program areas related to the physiology, ecology, and genetics of weedy and invasive plants.

Part III—Preparation of a Proposal

A. Program Application Materials

Program application materials are available at the Integrated Research, Education, and Extension Competitive Grants Program website (http://www.reeusda.gov/integrated/). If you do not have access to our web page or have trouble downloading material, you may contact the Proposal Services Unit, Office of Extramural Programs, USDA/CSREES at (202) 401–5048. When calling the Proposal Services Unit, please indicate that you are requesting forms for the FY 2001 Integrated Research, Education, and Extension Competitive Grants Program—Pest Management. These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to psb@reeusda.gov. State that you want a copy of the Program Description and application materials (orange book) for the Fiscal Year 2001 Integrated Research, Education, and Extension Competitive Grants Program—Pest Management.

B. Content of Proposals

1. General

The proposal should follow these guidelines, enabling reviewers to more easily evaluate the merits of each proposal in a systematic, consistent fashion:

(a) The proposal should be prepared on only one side of the page using standard size (8 ½″ x 11″) white paper, one inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face (e.g., Geneva, Helvetica, Times Roman).

(b) Each page of the proposal, including the Project Summary, budget pages, required forms, and any appendices, should be numbered sequentially.

(c) The proposal should be stapled in the upper left-hand corner. Do not bind. An original and 14 copies (15 total) must be submitted in one package, along with 10 copies of the ''Project Summary'' as a separate attachment.

(d) If applicable, proposals should include original illustrations (photographs, color prints, etc.) in all copies of the proposal to prevent loss of meaning through poor quality reproduction.

2. Cover Page (Form CSREES–661)

Each copy of each grant proposal must contain an ''Application for Funding'', Form CSREES–661. One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing principal investigator(s)/project director(s)(PI/PD) and the authorized organizational representative who possesses the necessary authority to commit the organization's time and other relevant resources to the project. Any proposed PI/PD or co-PI/PD whose signature does not appear on Form CSREES–661 will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the ''Application for Funding'' form.

Form CSREES–661 serves as a source document for the CSREES grant database; it is therefore important that it be completed accurately. The following items are highlighted as having a high potential for errors or misinterpretations:

(a) Title of Project (Block 6). The title of the project must be brief (80-character maximum), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as ''investigation of,'' ''research on,'' ''education for,'' or ''outreach that'' should not be used.

(b) Program to Which You Are Applying (Block 7). ''Integrated Research, Education, and Extension Competitive Grants Program—Pest Management.''

(c) Program Area and Number (Block 8). The name of the program component (e.g., CAR, 112.A or RAMP, 112.B) should be inserted in this block.

(d) Type of Award Request (Block 13). Check the block for ''new'' or ''resubmission.''

(e) Principal Investigator(s)/Project Director(s) (PI/PD) (Block 15). The designation of excessive numbers of co-PI/PD's creates problems during final review and award processing. Listing multiple co-PI/PD's, beyond those required for genuine collaboration, is therefore discouraged. Note that providing a Social Security Number is voluntary, but is an integral part of the CSREES information system and will assist in the processing of the proposal.

(f) Type of Performing Organization (Block 18). A check should be placed in the box beside the type of organization which actually will carry out the effort. For example, if the proposal is being submitted by an 1862 Land-Grant Institution but the work will be performed in a department, laboratory, or other organizational unit of an agricultural experiment station, box ''03'' should be checked. If portions of the effort are to be performed in several departments, check the box that applies to the individual listed as PI/PD #1 in Block 15.a.

(g) Other Possible Sponsors (Block 22). List the names or acronyms of all other public or private sponsors including other agencies within USDA and other programs funded by CSREES to whom your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES Program Director as soon as practicable. Submitting your proposal to other potential sponsors will not prejudice its review by CSREES; however, duplicate support for the same project will not be provided. Complete the ''Application for Funding,'' Form CSREES–661, in its entirety.

(h) One copy of the ''Application for Funding'' form must contain the original signatures of the PI/PD(s) and authorized organizational representative for the applicant organization.

3. Table of Contents

For consistency and ease in locating information, each proposal must contain a detailed Table of Contents just after the cover page. The Table of Contents should contain page numbers for each component of the proposal. Page numbers should begin with the first page of the Project Description.

4. Project Summary

The proposal must contain a Project Summary of 250 words or less on a

separate page which should be placed immediately after the Table of Contents and should not be numbered. The names and affiliated organizations of all PI/PD's and co-PI/PD's should be listed on this form, in addition to the title of the project. The summary should be a self-contained, specific description of the activity to be undertaken and should focus on: Overall project goal(s) and supporting objectives; plans to accomplish project goal(s); and relevance of the project to the Integrated Competitive Grants Program—Pest Management. The importance of a concise, informative Project Summary cannot be overemphasized.

5. Response to Previous Review

This requirement only applies to ''Resubmitted Proposals'' as described under Part I, E, ''Types of Proposals.'' For these proposals, the investigator(s) must respond to the previous panel summary on no more than one page, titled ''RESPONSE TO PREVIOUS REVIEW,'' which is to be placed directly after the Project Summary. If desired, additional comments and responses to the previous panel summary may be included in the text of the Project Description, subject to the page limitation.

6. Project Description

PLEASE NOTE: The Project Description shall not exceed 15 pages of written text and may not exceed a total of 20 pages including figures and tables. This maximum has been established to ensure fair and equitable competition. The Project Description must include all of the following:

a. Introduction: A clear statement of the long-term goal(s) and supporting objectives of the proposed activities should be included. Summarize the body of knowledge or other past activities which substantiate the need for the proposed project. Describe ongoing or recently completed significant activities related to the proposed project including the work of key project personnel. Preliminary data/information pertinent to the proposed project should be included. In addition, this section should include in-depth information on the following, when applicable:

(1) Estimates of the magnitude of the issues and their relevance to stakeholders and to ongoing State-Federal food and agricultural research, education and extension programs.

(2) Role of the stakeholders in problem identification, planning, and implementation and evaluation as appropriate.

(3) Reasons for having the work performed at the proposing institution.

b. Objectives: Clear, concise, complete, and logically arranged statement(s) of specific aims of the proposed effort must be included in all proposals.

c. Methods: The procedures or methodology to be applied to the proposed effort should be explicitly stated. This section should include but not necessarily be limited to:

(1) A description of stakeholder involvement in problem identification, planning, implementation and evaluation;

(2) A description of the proposed project activities in the sequence in which it is planned to carry them out;

(3) Techniques to be employed, including their feasibility and rationale for their use in this project;

(4) Kinds of results expected;

(5) Means by which extension and education activities will be evaluated;

(6) Means by which data will be analyzed or interpreted;

(7) Details of plans to communicate results to stakeholders and the public;

(8) Pitfalls that might be encountered; and

(9) Limitations to proposed procedures.

d. Cooperation and Institutional Units Involved: Cooperative, multi-institutional and multi-disciplinary applications are encouraged. Identify each institutional unit contributing to the project and designate the lead institution or institutional unit. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional partner of the project team.

e. Facilities and Equipment: All facilities which are available for use or assignment to the project during the requested period of support should be reported and described briefly. All items of major equipment or instrumentation available for use or assignment to the proposed project should be itemized. In addition, items of nonexpendable equipment needed to conduct and bring the project to a successful conclusion should be listed, including dollar amounts and, if funds are requested for their acquisition, justified.

g. Project Timetable: The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

7. References

All references cited should be complete, including titles and all co-authors, and should conform to an accepted journal format.

8. Appendices to Project Description

Appendices to the Project Description are allowed if they are directly germane to the proposed project and are limited to a total of two of the following: reprints (papers that have been published in peer reviewed journals) and preprints (manuscripts in press for a peer reviewed journal; these must be accompanied by a letter of acceptance from the publishing journal).

9. Key Personnel

The following should be included, as applicable:

(a) The roles and responsibilities of each PI/PD and/or collaborator should be clearly described;

(b) An estimate of the time commitment involved for each PI/PD and/or collaborator, including current and pending projects; and

(c) Vitae of each PI/PD, senior associate, and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings. A chronological list of *all* publications in *refereed journals* during the past *four (4) years*, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Also list only those *non-refereed* publications that have *relevance* to the proposed project. All authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

10. Conflict-of-Interest List

A Conflict-of-Interest List must be provided for all individuals involved in the project (i.e., each individual submitting a vitae in response to item 9.(c) of this part). Each list should be on a separate page and include alphabetically the full names of the individuals in the following categories: (a) All collaborators on projects within the past four years, including current and planned collaborations; (b) all co-authors on publications within the past four years, including pending publications and submissions; (c) all persons in your field with whom you have had a consulting or financial arrangement within the past four years, who stand to gain by seeing the project funded; and (d) all thesis or postdoctoral advisees/advisors within

the past four years (some may wish to call these life-time conflicts). This form is necessary to assist program staff in excluding from proposal review those individuals who have conflicts-of-interest with the personnel in the grant proposal. The Program Director must be informed of any additional conflicts-of-interest that arise after the proposal is submitted.

11. Collaborative and/or Subcontractual Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with others, such arrangements should be fully explained and justified. In addition, evidence should be provided that the collaborators involved have agreed to render these services. If the need for consultant services is anticipated, the proposal narrative should provide a justification for the use of such services, a statement of work to be performed, a resume or curriculum vita for each consultant, and rate of pay for each consultant. For purposes of proposal development, informal day-to-day contacts between key project personnel and outside experts are not considered to be collaborative arrangements and thus do not need to be detailed.

All anticipated subcontractual arrangements also should be explained and justified in this section. A proposed statement of work and a budget for each arrangement involving the transfer of substantive programmatic work or the providing of financial assistance to a third party must be provided. Agreements between departments or other units of your own institution and minor arrangements with entities outside of your institution (e.g., requests for outside laboratory analyses) are excluded from this requirement.

If you expect to enter into subcontractual arrangements, please note that the provisions contained in 7 CFR part 3019, USDA Uniform Administrative Requirements for Grant and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and the general provisions contained in 7 CFR Part 3015.205, USDA Uniform Federal Assistance Regulations, flow down to subrecipients. In addition, required clauses from Sections 40–48 (''Procurement Standards'') and Appendix A (''Contract Provisions'') to 7 CFR part 3019 should be included in final contractual documents, and it is necessary for the subawardee to make a certification relating to debarment/suspension.

12. Budget (Form CSREES–55)

a. *Budget Form.* Prepare the budget, Form CSREES–55, in accordance with instructions provided. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants must also include a budget narrative to justify their budgets (see section b below.)

The following guidelines should be used in developing your proposal budget(s):

1. Salaries and Wages. Salaries and wages are allowable charges and may be requested for personnel who will be working on the project in proportion to the time such personnel will devote to the project. If salary funds are requested, the number of Senior and Other Personnel and the number of CSREES-Funded Work Months must be shown in the spaces provided. Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for time in addition to a regular full-time salary covering the same general period of employment. Salary funds requested must be consistent with the normal policies of the institution.

2. Fringe Benefits. Funds may be requested for fringe benefit costs if the usual accounting practices of your organization provide that organizational contributions to employee benefits (e.g., social security and retirement) be treated as direct costs. Fringe benefit costs may be included only for those personnel whose salaries are charged as a direct cost to the project.

3. Nonexpendable Equipment. Nonexpendable equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 (or lower depending on institutional policy) or more per unit. As such, items of necessary instrumentation or other nonexpendable equipment should be listed individually by description and estimated cost in the budget narrative. This applies to revised budgets as well, as the equipment item(s) and amount(s) may change.

4. Materials and Supplies. The types of expendable materials and supplies which are required to carry out the project should be indicated in general terms with estimated costs in the budget narrative.

5. Travel. The type and extent of travel and its relationship to project objectives should be described briefly and justified. If travel is proposed, the destination, the specific purpose of the travel, a brief itinerary, inclusive dates of travel, and estimated cost must be provided for each trip. Airfare allowances normally will not exceed round-trip jet economy air accommodations. U.S. flag carriers must be used when available. See 7 CFR Part 3015.205(b)(4) for further guidance.

6. Publication Costs/Page Charges. Include anticipated costs associated with publications in a journal (preparing and publishing results including page charges, necessary illustrations, and the cost of a reasonable number of coverless reprints) and audio-visual materials that will be produced. Photocopying and printing brochure, etc., should be shown in Section I., ''All Other Direct Costs'' of Form CSREES–55.

7. Computer (ADPE) Costs. Reimbursement for the costs of using specialized facilities (such as a university- or department-controlled computer mainframe or data processing center) may be requested if such services are required for completion of the work.

8. All Other Direct Costs. Anticipated direct project charges not included in other budget categories must be itemized with estimated costs and justified in the budget narrative. This also applies to revised budgets, as the item(s) and dollar amount(s) may change. Examples may include space rental at remote locations, subcontractual costs, and charges for consulting services, telephone, facsimile, shipping costs, and fees necessary for laboratory analyses. You are encouraged to consult the ''Instructions for Completing Form CSREES–55, Budget,'' of the Application Kit for detailed guidance relating to this budget category. Form AD–1048 must be completed by each subcontractor or consultant and retained by the grantee.

9. Indirect Costs. Section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310) limits indirect costs for this program to 19 percent of total Federal funds provided under each award. Therefore the recovery of

indirect costs under this program may not exceed the lesser of the institution's official negotiated indirect cost rate or the equivalent of 19 percent of total Federal funds awarded. Another method of calculating the maximum allowable is 23.456 percent of the total direct costs. If no rate has been negotiated, a reasonable dollar amount (equivalent to or less than 19 percent of total Federal funds requested) in lieu of indirect costs may be requested, subject to approval by USDA.

b. *Budget Narrative.* All budget categories, excluding Indirect Costs, for which support is requested, must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the Budget Form. Explanations of matching funds or lack there of on commodity-specific projects also are to be included in this section.

c. *Matching Funds.* If an applicant concludes that matching funds are not required as specified under Part I, F, ''Matching Requirements,'' a justification should be included in the budget narrative. CSREES will consider this justification when ascertaining final matching requirements or in determining if required matching can be waived. CSREES retains the right to make final determinations regarding matching requirements.

For those grants requiring matching funds as specified under Part I, F, proposals should include written verification of commitments of matching support (including both cash and in-kind contributions) from third parties. Written verification means:

(a) For any third party cash contributions, a separate pledge agreement for each donation, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) the dollar amount of the cash donation; and (5) a statement that the donor will pay the cash contribution during the grant period; and

(b) For any third party in-kind contributions, a separate pledge agreement for each contribution, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) a good faith estimate of the current fair market value of the third party in-kind contribution; and (5) a statement that the donor will make the contribution during the grant period.

The sources and amount of all matching support from outside the applicant institution should be summarized on a separate page and placed in the proposal immediately following the Budget Narrative. All pledge agreements must be placed in the proposal immediately following the summary of matching support.

The value of applicant contributions to the project shall be established in accordance with applicable cost principles. Applicants should refer to OMB Circular A–21, Cost Principles for Educational Institutions, for further guidance and other requirements relating to matching and allowable costs.

13. Current and Pending Support (Form CSREES–663)

All proposals must contain Form CSREES–663 listing other current public or private support (including in-house support) to which personnel (i.e., individuals submitting a vitae in response to 9.(c) of this part) identified in the proposal have committed portions of their time, whether or not salary support for person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA Programs or agencies. Concurrent submission of identical or similar proposals to the possible sponsors will not prejudice proposal review or evaluation by the CSREES for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. Note that the project being proposed should be included in the pending section of the form.

14. Assurance Statement(s), (Form CSREES–662)

A number of situations encountered in the conduct of projects require special assurances, supporting documeation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, it is expected that some applications submitted in response to these guidelines will involve the following:

a. *Recombinant DNA or RNA Research.* As stated in 7 CFR Part 3015.205 (b)(3), all key personnel identified in the proposal and all endorsing officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, ''Guidelines for Research Involving Recombinant DNA Molecules,'' as revised. If your project proposes to use recombinant DNA or RNA techniques, you must so indicate by checking the ''yes'' box in Block 19 of Form CSREES–661 (the Cover Page) and by completing Section A of Form CSREES–662. For applicable proposals recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released.

b. *Animal Care.* Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key project personnel identified in a proposal and all endorsing officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary in 9 CFR Parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals, you should check ''yes'' in block 20 of Form CSREES–661 and complete Section B of Form CSREES–662. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project.

c. *Protection of Human Subjects.* Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. No. 93–348, as amended, and implementing regulations promulgated by the Department under 7 CFR Part 1c. If you propose to use human subjects for experimental purposes in your project, you should check the ''yes'' box in Block 21 of Form CSREES–661 and complete Section C of Form CSREES–662. In the event a project involving human subjects results in a grant award, funds will be released only after the appropriate Institutional Review Board has approved the project.

15. Certifications

Note that by signing Form CSREES–661 the applicant is providing the certifications required by 7 CFR part 3017, as amended, regarding Debarment and Suspension and Drug Free Workplace, and 7 CFR part 3018, regarding Lobbying. The certification forms are included in the application package for informational purposes only. These forms should not be submitted with the proposal since by signing Form CSREES–661 your organization is providing the required certifications. If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048 to the grantee organization for retention in their records. This form should not be submitted to USDA.

16. Compliance With the National Environmental Policy Act (NEPA) (Form CSREES–1234)

As outlined in 7 CFR part 3407 (i.e., the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In some cases, however, the preparation of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–1234, ''NEPA Exclusions Form,'' must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefore. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion must be identified. Form CSREES–1234 and supporting documentation should be included as the last page of this proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

C. Submission of Proposals

1. When To Submit (Deadline Date)

Proposals must be received by COB on May 14, 2001 (5:00 p.m. EST). Proposals received after this date will not be considered for funding.

2. What To Submit

An original and 14 copies must be submitted. In addition submit 10 copies of the proposal's Project Summary. All copies of the proposals and the Project Summaries must be submitted in one package.

3. Where To Submit

Applicants are strongly encouraged to submit completed proposals via overnight mail or delivery service to ensure timely receipt by the USDA. The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Integrated Research, Education, and Extension Competitive Grants Program—Pest Management; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024.

Proposals sent via the U.S. Postal Service must be sent to the following address: Integrated Research, Education, and Extension Competitive Grants Program—Pest Management; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

D. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged by e-mail. Therefore, applicants are strongly encouraged to provide e-mail addresses, where designated, on the Form CSREES–661. If the applicant's email address is not indicated, CSREES will acknowledge receipt of proposal by letter.

Once the proposal has been assigned an identification number, please cite that number on all future correspondence. If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the Program Director.

Part IV—Review Process

A. General

Each proposal will be evaluated in a 2-part process. First, each proposal will be screened to ensure that it meets the administrative requirements as set forth in this request for proposals. Second, proposals that meet these requirements will be technically evaluated by a peer review panel.

Peer review panel members will be selected based upon their training and experience in relevant scientific, education or extension fields taking into account the following factors: (a) The level of formal scientific, technical education, and extension experience of the individual, as well as the extent to which an individual is engaged in relevant research, education and/or extension activities; (b) the need to include as peer reviewers experts from various areas of specialization within relevant scientific, education, and extension fields; (c) the need to include as reviewers other experts (e.g., producers, range or forest managers/operators, and consumers) who can assess relevance of the proposals to targeted audiences and to program needs; (d) the need to include as peer reviewers experts from a variety of organizational types (e.g., colleges, universities, industry, state and Federal agencies, private profit and non-profit organizations), and geographic locations; (e) the need to maintain a balanced composition of peer review groups with regard to minority and female representation and an equitable age distribution; and (f) the need to include members that can judge the effective usefulness to producers and the general public of each proposal.

B. Evaluation Criteria

Technical merit, relevance to program goals and potential impact will be evaluated for each proposal. Proposals must show evidence of strength in all of these areas to be rated highly for funding. Specific criteria for these proposal attributes are listed below.

(1) Technical merit of all aspects of the proposal, including research, education and extension components.

(a) Conceptual adequacy of overall approach;

(b) Extent to which proposed work addresses identified stakeholder needs;

(c) Conceptual adequacy of hypothesis or hypotheses on which plan is based;

(d) Suitability and feasibility of the methodology for conducting the work;

(e) Time allocated for attainment of objectives;

(f) Qualifications of project personnel;

(g) Institutional experience and competence in the identified area of work;

(h) Adequacy of available support personnel, equipment, and facilities;

(i) Extent to which proposed work integrates research, education and extension; and

(j) Suitability and feasibility of the methodology for evaluating extension and education activities.

(2) Relevancy to Program Goals and Potential Impact.

(a) Relationship of project objectives to national issues and objectives;

(b) Regional or national magnitude of problem addressed;

(c) Evidence of partnerships with other disciplines and institutions;

(d) Extent to which end users are involved in problem identification, planning, implementation and evaluation;

(e) Probability of success of the project; and

(f) Extent to which potential impact can be documented.

Priority will be given for integrated, multifunctional research, education, and extension projects.

C. Conflicts-of-Interest and Confidentiality

During the peer evaluation process, extreme care will be taken to prevent any actual or perceived conflicts-of-interest that may impact review or evaluation. For the purpose of determining conflicts-of-interest, the academic and administrative autonomy of an institution shall be determined by reference to the 2000 Higher Education Directory, published by Higher Education Publications, Inc., 6400 Arlington Boulevard, Suite 648, Falls Church, Virginia 22042. Phone: (703) 532–2305.

Names of submitting institutions and individuals, as well as proposal content and peer evaluations, will be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of peer reviewers will remain confidential throughout the entire review process. Therefore, the names of the reviewers will not be released to applicants. At the end of the fiscal year, names of panelists will be made available in such a way that the panelists cannot be identified with the review of any particular proposal.

Part V—Grant Awards

A. General

Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious under the procedures set forth in this RFP. The date specified by the awarding official of CSREES as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this RFP shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (parts 3015 and 3019 of 7 CFR).

B. Funding Mechanisms

The two mechanisms by which grants may be awarded are as follows:

(1) Standard grant. This is a funding mechanism whereby the Department agrees to support a specified level of effort for a predetermined time period without the announced intention of providing additional support at a future date.

(2) Continuation grant. This is a funding mechanism whereby the Department agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support will be in the best interests of the Federal government and the public. This kind of mechanism normally will be awarded for an initial one-year period, and any subsequent continuation project grants will be awarded in one-year increments. The award of a continuation project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. Unless prescribed otherwise by CSREES, a grantee must submit a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Decisions regarding continued support and the actual funding levels of such support in future years usually will be made administratively after consideration of such factors as the grantee's progress and management practices and the availability of funds. Since initial peer reviews are based upon the full term and scope of the original application, additional evaluations of this type generally are not required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

C. Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this RFP, if such information has not been provided previously under this or another CSREES program. CSREES will provide copies of forms recommended for use in fulfilling these requirements as part of the preaward process.

D. Grant Award Document and Notice of Grant Award

The grant award document shall include at a minimum the following:

(1) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for proposals;

(2) Title of project;

(3) Name(s) and address(es) of PI/PD's chosen to direct and control approved activities;

(4) Identifying grant number assigned by the Department;

(5) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(6) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(7) Legal authority(ies) under which the grant is awarded;

(8) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(9) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

Part VI—Additional Information

A. Access To Review Information

Copies of summary reviews, not including the identity of reviewers, will

be sent to the applicant PI/PD after the review process has been completed.

B. Use of Funds; Changes

(1) Delegation of Fiscal Responsibility

Unless the terms and conditions of the grant state otherwise, the grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(2) Changes in Project Plans

(a) The permissible changes by the grantee, PI/PD(s), or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the PI/PD(s) are uncertain as to whether a change complies with this provision, the question must be referred to the CSREES Authorized Departmental Officer (ADO) for a final determination.

(b) Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(c) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

(d) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the ADO prior to effecting such transfers, unless prescribed otherwise in the terms and conditions of the grant.

(e) Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the ADO determines may be necessary to complete or fulfill the purposes of an approved project, but in no case shall the total project period exceed five years. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO, unless prescribed otherwise in the terms and conditions of a grant.

(f) Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the grant award.

C. Expected Program Outputs and Reporting Requirements

The grantee must prepare an annual report that details all significant activities towards achieving the goals and objectives of the project. The narrative should be succinct and be no longer than five pages, using 12-point, single-spaced type. The report also should include a listing of any students who worked on the project (i.e., report graduate degrees awarded and undergraduates trained, as applicable). A budget summary should be attached to this report, which will provide an overview of all monies spent during the reporting period.

D. Applicable Federal Statutes and Regulations

Several Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include, but are not limited to:

7 CFR Part 1.1—USDA implementation of the Freedom of Information Act.

7 CFR Part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR Part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., OMB Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Organizations.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR Part 15b (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of CSREES transactions, available to the public upon specific request. Information that the Secretary determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent pbrmitted by law. Therefore, any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked within the proposal. The original copy of a proposal that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, this 7th day of March 2001.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 01–6200 Filed 3–12–01; 8:45 am]

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Federal Register

Tuesday,

March 13, 2001

Part VI

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative: Request for Proposals and Request for Input; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative: Request for Proposals and Request for Input

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of request for proposals and request for input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) announces the availability of grant funds and requests proposals for the Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative for fiscal year (FY) 2001 to support integrated, multifunctional agricultural research, extension, and education activities that address food safety priorities in the United States. The amount available for support of this program in FY 2001 is approximately $14,247,128 of which a portion will be used to fund the second year of a continuation grant for the Center for Home Food Processing and Preservation that was awarded in FY 2000 for four years (FY 2000–FY 2003). As a result, approximately $13,647,482 will be made available to fund new grant proposals in FY 2001.

This notice sets out the objectives for National Integrated Food Safety Initiative projects, the eligibility criteria for projects and applicants, the application procedures, and the set of instructions needed to apply for a Food Safety grant under this authority.

By this notice, CSREES additionally solicits stakeholder input from any interested party regarding the FY 2001 Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative for use in the development of any future requests for proposals (RFP's) for this program.

DATES: Proposals must be received by close of business (COB) on May 14, 2001 (5:00 p.m. EST). Proposals received after this date will not be considered for funding. Comments regarding this RFP are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable.

ADDRESSES: The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024.

Proposals sent via the U.S. Postal Service must be sent to the following address: Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

Written user comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA–CSREES; STOP 2299; 1400 Independence Avenue, SW.; Washington, DC 20250–2299; or via e-mail to: RFP-OEP@reeusda.gov. In your comments, please include the name of the program and the fiscal year of the RFP to which you are responding.

FOR FURTHER INFORMATION: Applicants and other interested parties are encouraged to contact Dr. Jan Singleton; National Program Leader, Food Science and Food Safety; Plant and Animal Systems Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, SW.; Washington, DC 20024–2220; telephone: (202) 401–1954; fax: (202) 401–9862; email: jsingleton@reeusda.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

Stakeholder Input
Catalog of Federal Domestic Assistance
Part I—General Information
- A. Legislative Authority and Background
- B. Purpose, Priorities, and Fund Availability
- C. Definitions
- D. Eligibility
- E. Types of Proposals
- F. Matching Requirements
- G. Funding Restrictions

Part II—Program Description
- A. Project Types
- B. Program Area Description

Part III—Preparation of a Proposal
- A. Program Application Materials
- B. Content of Proposals
- C. Submission of Proposals
- D. Acknowledgment of Proposals

Part IV—Review Process
- A. General
- B. Evaluation Criteria
- C. Conflicts-of-Interest and Confidentiality

Part V—Grant Awards
- A. General
- B. Funding Mechanisms
- C. Organizational Management Information
- D. Grant Award Document and Notice of Grant Award

Part VI—Additional Information
- A. Access to Review Information
- B. Use of Funds; Changes
- C. Expected Program Outputs and Reporting Requirements
- D. Applicable Federal Statutes and Regulations
- E. Confidential Aspects of Proposals and Awards
- F. Regulatory Information

Stakeholder Input

CSREES is soliciting comments regarding this RFP from any interested party. These comments will be considered in the development of any future RFP for the program. Such comments will be used to meet the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7613(c)(2)). This section requires the Secretary to solicit and consider input on a current RFP from persons who conduct or use agricultural research, education and extension for use in formulating future RFP's for competitive programs. Comments should be submitted as provided for in the **ADDRESSES** and **DATES** portions of this Notice.

No comments were received on the FY 2000 RFP for the Integrated Research, Education, and Extension Competitive Grants Program—National Food Safety Initiative that was published in the **Federal Register** on April 7, 2000 [65 FR 18838–18849].

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under 10.303, Integrated Research, Education, and Extension Competitive Grants Program.

Part I—General Information

A. Legislative Authority and Background

Section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (7 U.S.C. 7626) authorized the Secretary of Agriculture to establish a research, education, and extension competitive grants program to provide funding for integrated, multifunctional agricultural research, extension, and education activities. Subject to the availability of appropriations to carry out this program, the Secretary may award grants to colleges and universities (as defined by 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977

(NARETPA) (7 U.S.C. 3103)) on a competitive basis for integrated research, education, and extension projects. Grants are to be awarded to address priorities in United States agriculture that involve integrated research, education, and extension activities as determined by the Secretary in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board.

On November 19, 1999, the Secretary published in the **Federal Register** (64 FR 63560) a notice that the administration of this grant program had been delegated to the Cooperative State Research, Education, and Extension Service (CSREES). This notice also solicited public comment from persons who use or conduct research, extension, or education regarding the priorities to be addressed by this new program. In addition, this notice announced a public meeting to obtain comments to use in developing the proposed rule and RFP's for this new grant program. The public meeting was held on December 6, 1999.

All the comments and the official transcript of the meeting were made available for review on the CSREES web page. The comments and testimonies from the December 6, 1999, public meeting were considered in the formulation of the FY 2000 RFP and the FY 2001 RFP. Both RFP's were developed in consultation with the Advisory Board.

A food safety listening session was held on November 15, 2000, to obtain public comments for use in developing the FY 2001 RFP for the National Integrated Food Safety Initiative. In addition, a public meeting was held on November 30, 2000, and December 1, 2000, to obtain comments and testimonies for all Federal food safety programs, including the National Integrated Food Safety Initiative. The Secretary published the announcement of the public meeting in the **Federal Register** (65 FR 69907) on November 21, 2000.

The entire Integrated Research, Education, and Extension Competitive Grants Program is funded in FY 2001 at $39,838,535 (after deduction for administrative expenses) for the following integrated activities: Water Quality ($12,348,773), Food Safety ($14,247,128), and the Pest Management component which includes Pesticide Impact Assessment ($4,313,522), Crops at Risk from Food Quality and Protection Act (FQPA) Implementation ($1,424,858), FQPA Risk Mitigation Program for Major Food Crop Systems ($4,654,537), Methyl Bromide Transition Program ($2,374,764), and Organic Transition ($474,953). There will be four RFP's for this program. The Food Safety program will have one RFP and the Water Quality program will have two RFP's, while the latter five programs will be announced as one RFP for Pest Management. This notice announces and describes the Food Safety component of the Program.

CSREES will administer the Integrated Research, Education, and Extension Competitive Grants Program by determining priorities in United States agriculture through Agency stakeholder input processes and in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board. Each RFP for the different program areas (i.e., Food Safety, Water Quality, etc.) will be developed each fiscal year based on these established priorities and the resulting approaches to solving these critical agricultural issues. Although this overall grant program seeks to solve critical agricultural issues through an integration of research, education, and extension activities, a component of a RFP, depending on the priority being addressed and/or the stage at which the priority is being addressed, may request proposals that are research, education, or extension only, or a combination thereof. However, the overall overarching approach to solving the critical agricultural issue, priority, or problem will be through an integration of research, education, and extension activities within each individual program area.

B. Purpose, Priorities, and Fund Availability

The purpose of the National Integrated Food Safety Initiative is to support projects that address selected priority issues in food safety and demonstrate an integrated approach to solving problems in applied food safety research, education, and extension as described in this RFP. Various models for integration of applied research, education, and extension will be considered for funding. Proposals describing multistate, multi-institutional, multidisciplinary, and multifunctional activities (and combinations thereof) are encouraged. However, special emphasis will be given to proposals describing multifunctional activities that integrate research, education, and extension projects (*i.e.*, those that contain research, education, and extension components).

This integrated grants program creates opportunities for new collaborations between individuals and institutions which can address problems in new ways and/or improve communication with under-served or hard-to-reach audiences. In order to fully realize these potential benefits, CSREES strongly encourages applicants to develop proposals that include:

(1) Integrated activities that include collaboration with small- or mid-sized, accredited colleges and universities; or

(2) Integrated activities that include collaboration with historically black colleges and universities, Hispanic-serving institutions, tribal colleges, and/or other institutions that serve high-risk, under-served, or hard-to-reach audiences.

This program supports integrated research, education, and extension. The research component will focus on applied food safety research. Basic research will be considered for funding only under special circumstances for which adequate justification has been provided in the proposal. In addition to traditional laboratory and field research, applied research may include educational research, behavioral or social research, and/or research focused on defining the behavioral determinants of food safety practices.

The education component of the National Integrated Food Safety Initiative will address food safety education and training implemented in a formal classroom setting. This may include elementary, secondary, undergraduate, or graduate education. The extension component will address food safety education and training implemented in a non-formal setting. Where there is no extension program, outreach activities that deliver science-based knowledge and informational education to people in a variety of non-formal settings are acceptable. In addition to education and training, extension or outreach components may include the development and distribution of educational materials such as pamphlets, fliers, fact sheets, training curricula, videotapes, audiotapes, CD ROMS, interactive software, and a variety of other audiovisual and print media. An evaluation of the effectiveness of the education, extension or outreach materials, media, programs and/or interventions is required where these components are addressed.

The priority issues in food safety described below were identified by stakeholders during a series of public meetings held to solicit program input from various users of food safety information at the local, state, regional, and national levels. Interdepartmental food safety priorities and those supported by the Presidential Food

Safety Initiative were also considered in the development of this RFP.

There is no commitment by USDA to fund any particular proposal or to make a specific number of awards. Approximately $13,647,482 will be available to fund proposals in FY 2001. Proposals are being solicited in 10 component areas: (1) Analysis, Assessment, and Communication of Risk; (2) Control Measures for Food-Borne Microbial Pathogens; (3) Sources and Incidence of Microbial Pathogens; (4) Antibiotic Resistant Microbial Pathogens; (5) Improving the Safety of Fresh Fruits and Vegetables; (6) Food Handler Education and Training for Consumers and Youth; (7) Food Handler Education for High-risk and Hard-to-reach Audiences; (8) Food Handler Education and Training for Commercial and Non-Commercial Audiences; (9) Hazard Analysis and Critical Control Points (HACCP) Model Development, Testing, Implementation, and Evaluation; and (10) National Support and Coordination of Integrated Food Safety Programs and Resources.

C. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable:

(1) *Administrator* means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved is delegated.

(2) *Authorized departmental officer* means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) *Authorized organizational representative* means the president, director, or chief executive officer or other designated official of the applicant organization who has the authority to commit the resources of the organization.

(4) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) *Cash contributions* means the applicant's cash outlay, including the outlay of money contributed to the applicant by non-Federal third parties.

(6) *Department* or *USDA* means the United States Department of Agriculture.

(7) *Education activity* means formal classroom instruction, laboratory instruction, and practicum experience in the food and agricultural sciences and other related matters such as faculty development, student recruitment and services, curriculum development, instructional materials and equipment, and innovative teaching methodologies.

(8) *Extension activity* means an act or process that delivers science-based knowledge and informal educational programs to people, enabling them to make practical decisions.

(9) *Grant* means the award by the Secretary of funds to an eligible organization or individual to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to accomplish the purpose of the program as identified in these guidelines.

(10) *Grantee* means an organization designated in the grant award document as the responsible legal entity to which a grant is awarded.

(11) *Integrated* means to bring the three components of the agricultural knowledge system (research, education, and extension) together around a problem area or activity.

(12) *Matching* means that portion of allowable project costs not borne by the Federal Government, including the value of in-kind contributions.

(13) *Peer review* means an evaluation of a proposed project for scientific or technical quality and relevance performed by experts with the scientific knowledge and technical skills to conduct the proposed work or to give expert advice on the merits of a proposal.

(14) *Principal investigator/Project director* means the single individual designated in the grant application and approved by the Secretary who is responsible for the direction and management of the project.

(15) *Prior approval* means written approval evidencing prior consent by an authorized departmental officer as defined in (2) above.

(16) *Project* means the particular activity within the scope of the program supported by a grant award.

(17) *Project period* means the period, as stated in the award document, during which Federal sponsorship begins and ends.

(18) *Research activity* means a scientific investigation or inquiry that results in the generation of knowledge.

(19) *Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved is delegated.

(20) *Third party in-kind contributions* means non-cash contributions of property or services provided by non-Federal third parties, including real property, equipment, supplies and other expendable property, directly benefitting and specifically identifiable to a funded project or program.

(21) *Total integrated, multifunctional research, education, and extension approach* means that the combination of grants (although the individual grants may involve only research, education, or extension activities or a combination thereof) awarded under the fiscal year's program components will work together to address the priorities in United States agriculture as determined by the Secretary of Agriculture in consultation with the Advisory Board, that involve integrated research, extension, and education activities.

D. Eligibility

Proposals may be submitted by colleges and universities as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). The terms ''college'' and ''university'' mean an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which a bachelor's degree or any other higher degree is awarded, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association. Although an applicant may be eligible based on its status as one of these entities, there are factors which may exclude an applicant from receiving Federal financial and nonfinancial assistance and benefits under this program (e.g., debarment or suspension of an individual involved or a determination that an applicant is not responsible based on submitted organizational management information). Eligible applicants may subcontract to organizations not eligible under these requirements.

Please note that a research foundation maintained by a college or university is not eligible to receive an award under this program. Proposals received from research foundations will not be considered for funding.

E. Types of Proposals

In FY 2001, projects under the Integrated Research, Education, and Extension Competitive Grants Program authority may be submitted as one of the two types of proposals described below:

(1) New proposal. This is a project proposal that has not been previously submitted to the Integrated Research, Education, and Extension Competitive

Grants Program. All new proposals will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

(2) Resubmitted proposal. This is a proposal that had previously been submitted to the Integrated Research, Education, and Extension Competitive Grants Program but not funded. The resubmitted proposal should clearly indicate the changes that have been made in the project proposal. Further, a clear statement acknowledging comments from the previous reviewers, indicating revisions, rebuttals, etc., can positively influence the review of the proposal. Therefore, for resubmitted proposals, the investigator(s) must respond to the previous panel summary on no more than one page, titled ''RESPONSE TO PREVIOUS REVIEW,'' which is to be placed directly after the Project Summary as described in Part III—Preparation of a Proposal. Resubmitted proposals will be reviewed competitively using the selection process and evaluation criteria described in Part IV—Review Process.

F. Matching Requirements

1. General Requirement

If a grant provides a particular benefit to a specific agricultural commodity, the grant recipient is required to provide funds or in-kind support to match the amount of the grant funds provided. See section 12. c. on ''Matching Funds'' under Part III, B, ''Content of Proposals'' for more details.

2. Waiver

CSREES may waive the matching funds requirement specified in the above paragraph for a grant if CSREES determines that (a) the results of the project, while of particular benefit to a specific agricultural commodity, are likely to be applicable to agricultural commodities generally; or (b) the project involves a minor commodity, the project deals with scientifically important research, and the grant recipient is unable to satisfy the matching funds requirement.

G. Funding Restrictions

CSREES has determined that grant funds awarded under this authority may not be used for the renovation or refurbishment of research, education, or extension space; the purchase or installation of fixed equipment in such space; or the planning, repair, rehabilitation, acquisition, or construction of buildings or facilities.

Part II—Program Description

A. Project Types

For Program Areas 1 through 10 (see Section B. of this part), the maximum total award is $600,000, and for a project period up to three years. Smaller awards for 1- to 2-year project periods also will be considered for funding.

Proposals that focus on one functional area (i.e., research only, education only, or extension only) are acceptable. However, priority consideration will be given to multifunctional proposals. For proposals that focus on one functional area, applicants should explain how the separate functional area will meet the overall goal of a total integrated, multifunctional research, education, and extension approach.

Applications received in any of the aforementioned program areas must include budgets commensurate with the activities proposed. Grants awarded under Program Areas 1 through 10 of this RFP will be issued as ''New Grant'' instruments and will be awarded as ''Standard Grants.''

B. Program Area Description

Integrated research, education, and extension proposals that address the following selected priority issues are requested:

For Program Areas 1 through 10: *(Maximum award: $600,000 and up to three years. Smaller awards for 1- to 2-year projects are acceptable).*

(1) Analysis, Assessment, and Communication of Risk (Program Area 111.M)

This category will support activities related to: (a) The development and validation of comprehensive, qualitative and/or quantitative, science-based models for risk assessments for microbial food-borne pathogens such as *Listeria monocytogenes, Campylobacter jejuni, Cyclospora, and Salmonella,* among others; (b) the development, implementation, and evaluation of model-based extension or outreach activities that teach users to avoid risk; and (c) the development and integration of model-based educational programs, modules, etc. into elementary, secondary, undergraduate, or graduate curricula.

(2) Control Measures for Food-borne Microbial Pathogens (Program Area 111.B)

This category will support the establishment of the scientific bases for, and the development of, models for identifying and validating critical control points, critical limits, and process capability related to control measures for significant food-borne microbial pathogens and/or their toxins in production, processing and distribution of foods. The development, implementation, and evaluation of model-based education, extension or outreach components focused on implementing control measures for microbial pathogens should be addressed.

(3) Sources and Incidence of Microbial Pathogens (Program Area 111.C)

This category will support identification of the sources and incidence of microbial pathogens of animal and human origin, their adaptation to new environments impacting food safety, and the development and implementation of strategies for their prevention and control. The development, implementation, and evaluation of education, extension or outreach components focused on the sources and incidence of microbial pathogens should be addressed.

(4) Antibiotic Resistant Microbial Pathogens (Program Area 111.D)

This category will support: (a) The identification of factors that lead to the development of antibiotic resistant microbial pathogens related to food safety; (b) the identification and application of measures to prevent antibiotic resistance; and (c) the development and application of alternative approaches to the use of antibiotics. The development, implementation, and evaluation of education, extension or outreach components focused on antibiotic resistance should be addressed.

(5) Improving the Safety of Fresh Fruits and Vegetables (Program Area 111.E)

This category will support the development of projects that focus on improving the safety of fresh and minimally processed imported and domestic fruits and vegetables, which includes: (a) The development of safe and efficacious techniques to enhance or ensure microbiological safety; (b) approaches that relate to post-production, harvesting, handling, transportation, and distribution control measures to the prevention of microbial pathogen infection or cross-contamination; or (c) development of procedures for sampling to accurately detect the presence of microbial pathogens and/or their toxins. Proposals involving international collaboration are encouraged. The development, implementation, and evaluation of education, extension or outreach components focused on improving the

safety of fresh fruits and vegetables should be addressed.

(6) Food Handler Education and Training for Consumers and Youth (Program Area 111.F)

This category will support the development of education and training programs that promote and enhance general food safety and food handler education for youths, adults, and older Americans preparing food in the home. Special emphasis will be given to education efforts that support activities of the *Presidential Food Safety Initiative and the Fight BAC* campaign of the government and industry-wide *Partnership for Food Safety Education.* Information about the Presidential Initiative, Fight BAC, and the Partnership for Food Safety Education can be found at the following website: http://www.foodsafety.gov. Where necessary, applied research to support the development, implementation, and evaluation of the educational intervention should be conducted. Previous research may be referenced.

(7) Food Handler Education and Training for High-risk and Hard-to-reach Audiences (Program Area 111.G)

This category will support the development of consumer education and training programs for high-risk or under-served groups (i.e., pregnant or nursing mothers, infants, children, the chronically ill, those with limited resources, those with low literacy skills, or those who speak English as a second language). Projects that target families receiving Federal food assistance are encouraged. Where necessary, applied research to support the development, implementation, and evaluation of the educational intervention should be conducted. Previous research may be referenced.

(8) Food Handler Education and Training for Commercial and Non-commercial Audiences, Including Food Handler Certification Training and Other *Train-the-trainer* Programs (Program Area 111.H)

This category will support the development, implementation, and evaluation of *train-the-trainer* programs for food handlers in commercial and non-commercial settings (e.g., institutional food service, retail establishments, hospitals, health care facilities, day care facilities, congregate meal sites, gleaning and food recovery programs, food banks, soup kitchens, churches, and service clubs). Special emphasis will be given to the development and implementation of food handler certification programs.

Where necessary, applied research to support the development, implementation, and evaluation of the educational intervention should be conducted. Previous research may be referenced.

(9) Hazard Analysis and Critical Control Points (HACCP) Model Development, Testing, and Implementation (Program Area 111.I)

This category will support the development of projects that focus on the development of HACCP models for education and training in four targeted areas: (a) Minimizing microbial food safety hazards for fresh fruits and vegetables through the development of training and education programs for domestic and international growers and producers; (b) Targeted HACCP plan development and implementation in small and very small meat and poultry plants, seafood and other small food processing plants; (c) HACCP plan development and implementation in retail establishments, including distribution and transportation sectors of the food industry; and (d) HACCP *train-the-trainer* programs using currently available models, curricula, and materials. HACCP model development must include pilot-testing, model implementation and evaluation. Regional, multi-state, or national workshops focused on training potential users of the HACCP models will be supported and are encouraged. Where necessary, applied research to support the development, implementation, and evaluation of the HACCP intervention should be conducted. Previous research may be referenced.

(10) National Support and Coordination of Integrated Food Safety Programs and Resources (Program Area 111.K)

This category will support the development of integrated food safety resources and outreach programs that facilitate national and international networking and coordination among the various users of food safety information, from production to consumption (e.g., farmers, producers, growers, packers, shippers, retailers, food service workers, processors, inspectors, veterinarians, sanitarians, educators, researchers, and consumers). Integrated food safety resources may include the development of databases and interactive software that support decision-making and problem-solving among food safety researchers, educators, consumers, and others. Outreach-related proposals may include support of national or regional conferences, multi-user distance education programs, satellite videoteleconferences, and other communication transfer technologies.

Part III—Preparation of a Proposal

A. Program Application Materials

Program application materials are available at the Integrated Research, Education, and Extension Competitive Grants Program website (http://www.reeusda.gov/integrated/). If you do not have access to our web page or have trouble downloading material, you may contact the Proposal Services Unit, Office of Extramural Programs, USDA/CSREES at (202) 401–5048. When calling the Proposal Services Unit, please indicate that you are requesting forms for the FY 2001 Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative. These materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and phone number to psb@reeusda.gov. State that you want a copy of the Program Description and application materials (orange book) for the Fiscal Year 2001 Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative.

B. Content of Proposals

1. General

The proposal should follow these guidelines, enabling reviewers to more easily evaluate the merits of each proposal in a systematic, consistent fashion:

(a) The proposal should be prepared on only one side of the page using standard size (8 ½″ x 11″) white paper, one inch margins, typed or word processed using no type smaller than 12 point font, and single or double spaced. Use an easily readable font face (e.g., Geneva, Helvetica, Times Roman).

(b) Each page of the proposal, including the Project Summary, budget pages, required forms, and any appendices, should be numbered sequentially.

(c) The proposal should be stapled in the upper left-hand corner. Do not bind. An original and 14 copies (15 total) must be submitted in one package, along with 10 copies of the ''Project Summary'' as a separate attachment.

(d) If applicable, proposals should include original illustrations (photographs, color prints, etc.) in all copies of the proposal to prevent loss of meaning through poor quality reproduction.

2. Cover Page (Form CSREES–661)

Each copy of each grant proposal must contain an ''Application for Funding'', Form CSREES–661. One copy of the application, preferably the original, must contain the pen-and-ink signature(s) of the proposing principal investigator(s)/project director(s)(PI/PD) and the authorized organizational representative who possesses the necessary authority to commit the organization's time and other relevant resources to the project. Any proposed PI/PD or co-PI/PD whose signature does not appear on Form CSREES–661 will not be listed on any resulting grant award. Complete both signature blocks located at the bottom of the ''Application for Funding'' form.

Form CSREES–661 serves as a source document for the CSREES grant database; it is therefore important that it be completed accurately. The following items are highlighted as having a high potential for errors or misinterpretations:

(a) Title of Project (Block 6). The title of the project must be brief (80-character maximum), yet represent the major thrust of the effort being proposed. Project titles are read by a variety of nonscientific people; therefore, highly technical words or phraseology should be avoided where possible. In addition, introductory phrases such as ''investigation of,'' ''research on,'' ''education for,'' or ''outreach that'' should not be used.

(b) Program to Which You Are Applying (Block 7). ''Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative.''

(c) Program Area and Number (Block 8). The name of the program component (e.g., Analysis, Assessment, and Communication of Risk, 111.M or Control Measures for Food-borne Microbial Pathogens, 111.B) should be inserted in this block.

(d) Type of Award Request (Block 13). Check the block for ''new'' or ''resubmission.''

(e) Principal Investigator(s)/Project Director(s) (PI/PD) (Block 15). The designation of excessive numbers of co-PI/PD's creates problems during final review and award processing. Listing multiple co-PI/PD's, beyond those required for genuine collaboration, is therefore discouraged. Note that providing a Social Security Number is voluntary, but is an integral part of the CSREES information system and will assist in the processing of the proposal.

(f) Type of Performing Organization (Block 18). A check should be placed in the box beside the type of organization which actually will carry out the effort. For example, if the proposal is being submitted by an 1862 Land-Grant Institution but the work will be performed in a department, laboratory, or other organizational unit of an agricultural experiment station, box ''03'' should be checked. If portions of the effort are to be performed in several departments, check the box that applies to the individual listed as PI/PD #1 in Block 15.a.

(g) Other Possible Sponsors (Block 22). List the names or acronyms of all other public or private sponsors including other agencies within USDA and other programs funded by CSREES to whom your application has been or might be sent. In the event you decide to send your application to another organization or agency at a later date, you must inform the identified CSREES Program Director as soon as practicable. Submitting your proposal to other potential sponsors will not prejudice its review by CSREES; however, duplicate support for the same project will not be provided. Complete the ''Application for Funding,'' Form CSREES–661, in its entirety.

(h) One copy of the ''Application for Funding'' form must contain the original signatures of the PI/PD(s) and authorized organizational representative for the applicant organization.

3. Table of Contents

For consistency and ease in locating information, each proposal must contain a detailed Table of Contents just after the cover page. The Table of Contents should contain page numbers for each component of the proposal. Page numbers should begin with the first page of the Project Description.

4. Project Summary

The proposal must contain a Project Summary of 250 words or less on a separate page which should be placed immediately after the Table of Contents and should not be numbered. The names and affiliated organizations of all PI/PD's and co-PI/PD's should be listed on this form, in addition to the title of the project. The summary should be a self-contained, specific description of the activity to be undertaken and should focus on: overall project goal(s) and supporting objectives; plans to accomplish project goal(s); and relevance of the project to the goals of the National Food Safety Initiative. The importance of a concise, informative Project Summary cannot be overemphasized.

5. Response to Previous Review

This requirement only applies to ''Resubmitted Proposals'' as described under Part I, E, ''Types of Proposals.'' For these proposals, the investigator(s) must respond to the previous panel summary on no more than one page, titled ''RESPONSE TO PREVIOUS REVIEW,'' which is to be placed directly after the Project Summary. If desired, additional comments and responses to the previous panel summary may be included in the text of the Project Description, subject to the page limitation.

6. Project Description

Please Note: The Project Description shall not exceed 15 pages of written text and may not exceed a total of 20 pages, including figures and tables. This maximum has been established to ensure fair and equitable competition. The Project Description must include all of the following:

a. Introduction: A clear statement of the long-term goal(s) and supporting objectives of the proposed activities should be included. Summarize the body of knowledge or other past activities which substantiate the need for the proposed project. Describe ongoing or recently completed significant activities related to the proposed project including the work of key project personnel. Preliminary data/information pertinent to the proposed project should be included. In addition, this section should include in-depth information on the following:

(1) A statement must be given at the beginning of the justification that clearly identifies the area(s) in Part II, B, that is (are) addressed in the proposal;

(2) Estimates of the magnitude of the food safety issues to be addressed and their relevance to stakeholder's needs, as well as ongoing State and national research, education, and extension programs; and

(3) Reasons for having the work performed by the proposing institution.

b. Objectives: Clear, concise, complete, and logically arranged statement(s) of specific aims of the proposed effort must be included in all proposals.

c. Methods: The procedures or methods to be applied to the proposed effort should be explicitly stated. This section should include, but not necessarily be limited to:

(1) A description of the proposed activities and the sequence in which they will be carried out;

(2) Procedures, techniques, methods, or approaches to be employed, including their feasibility;

(3) Means by which data will be analyzed or interpreted;

(4) Evaluation methods or means by which education and extension or outreach activities will be evaluated;

(5) Kinds of results or expected outcomes;

(6) Details of plans to communicate results to stakeholders or to the public;

(7) Problems that might be encountered; and

(8) Limitations to proposed procedures, techniques, methodologies, or approaches.

d. Cooperation and Institutional Units Involved: Cooperative, multi-institutional and multidisciplinary applications are encouraged. Identify each institutional unit contributing to the project and designate the lead institution or institutional unit. When appropriate, the project should be coordinated with the efforts of other State and/or national programs. Clearly define the roles and responsibilities of each institutional unit of the project team, if applicable.

e. Equipment and Facilities: All facilities which are available for use or assignment to the project during the requested period of support should be reported and described briefly. Any potentially hazardous materials, procedures, situations, or activities, whether or not directly related to a particular phase of the effort, must be explained fully, along with an outline of the precautions to be exercised. Examples include work with pathogenic organisms, toxic chemicals and experiments that may put human subjects or animals at risk. All items of major instrumentation available for use or assignment to the proposed project should be itemized. In addition, items of non-expendable equipment needed to conduct and bring the project to a successful conclusion should be listed, including dollar amounts. Justification must be provided if funds are requested for their acquisition.

f. Project Timetable: The proposal should outline all important phases as a function of time, year by year, for the entire project, including periods beyond the grant funding period.

7. References

All references cited should be complete, including titles and all co-authors, and should conform to an acceptable journal format.

8. Appendices to Project Description

Appendices to the Project Description are allowed if they are directly germane to the proposed project and are limited to a total of two of the following: reprints (papers that have been published in peer reviewed journals) and preprints (manuscripts in press for a peer reviewed journal; these must be accompanied by a letter of acceptance from the publishing journal).

9. Key Personnel

The following should be included, as applicable:

(a) The roles and responsibilities of each PI/PD and/or collaborator should be clearly described;

(b) An estimate of the time commitment involved for each PI/PD and/or collaborator, including current and pending projects; and

(c) Vitae of each PI/PD, senior associate, and other professional personnel. This section should include vitae of all key persons who are expected to work on the project, whether or not CSREES funds are sought for their support. The vitae should be limited to two (2) pages each in length, excluding publications listings. A chronological list of all publications in *refereed journals* during the past *four (4) years*, including those in press, must be provided for each project member for which a curriculum vitae is provided. Also list only those *non-refereed* technical publications that have *relevance* to the proposed project. All authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

10. Conflict-of-Interest List

A Conflict-of-Interest List must be provided for all individuals involved in the project (i.e., each individual submitting a vitae in response to item 9.(c) of this part). Each list should be on a separate page and include alphabetically the full names of the individuals in the following categories: (a) All collaborators on projects within the past four years, including current and planned collaborations; (b) all co-authors on publications within the past four years, including pending publications and submissions; (c) all persons in your field with whom you have had a consulting or financial arrangement within the past four years, who stand to gain by seeing the project funded; and (d) all thesis or postdoctoral advisees/advisors within the past four years (some may wish to call these life-time conflicts). This form is necessary to assist program staff in excluding from proposal review those individuals who have conflicts-of-interest with the personnel in the grant proposal. The Program Director must be informed of any additional conflicts-of-interest that arise after the proposal is submitted.

11. Collaborative and/or Subcontractual Arrangements

If it will be necessary to enter into formal consulting or collaborative arrangements with others, such arrangements should be fully explained and justified. In addition, evidence should be provided that the collaborators involved have agreed to render these services. If the need for consultant services is anticipated, the proposal narrative should provide a justification for the use of such services, a statement of work to be performed, a resume or curriculum vita for each consultant, and rate of pay for each consultant. For purposes of proposal development, informal day-to-day contacts between key project personnel and outside experts are not considered to be collaborative arrangements and thus do not need to be detailed.

All anticipated subcontractual arrangements also should be explained and justified in this section. A proposed statement of work and a budget for each arrangement involving the transfer of substantive programmatic work or the providing of financial assistance to a third party must be provided. Agreements between departments or other units of your own institution and minor arrangements with entities outside of your institution (e.g., requests for outside laboratory analyses) are excluded from this requirement.

If you expect to enter into subcontractual arrangements, please note that the provisions contained in 7 CFR part 3019, USDA Uniform Administrative Requirements for Grant and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and the general provisions contained in 7 CFR 3015.205, USDA Uniform Federal Assistance Regulations, flow down to subrecipients. In addition, required clauses from Sections 40–48 (''Procurement Standards'') and appendix A (''Contract Provisions'') to 7 CFR part 3019 should be included in final contractual documents, and it is necessary for the subawardee to make a certification relating to debarment/suspension.

12. Budget (Form CSREES–55)

a. Budget form. Prepare the budget, Form CSREES–55, in accordance with instructions provided. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. The budget form may be reproduced as needed by applicants. Funds may be requested under any of

the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project. Applicants must also include a budget narrative to justify their budgets (see section b below.)

The following guidelines should be used in developing your proposal budget(s):

1. Salaries and Wages. Salaries and wages are allowable charges and may be requested for personnel who will be working on the project in proportion to the time such personnel will devote to the project. If salary funds are requested, the number of Senior and Other Personnel and the number of CSREES-Funded Work Months must be shown in the spaces provided. Grant funds may not be used to augment the total salary or rate of salary of project personnel or to reimburse them for time in addition to a regular full-time salary covering the same general period of employment. Salary funds requested must be consistent with the normal policies of the institution.

2. Fringe Benefits. Funds may be requested for fringe benefit costs if the usual accounting practices of your organization provide that organizational contributions to employee benefits (e.g., social security and retirement) be treated as direct costs. Fringe benefit costs may be included only for those personnel whose salaries are charged as a direct cost to the project.

3. Nonexpendable Equipment. Nonexpendable equipment means tangible nonexpendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 (or lower depending on institutional policy) or more per unit. As such, items of necessary instrumentation or other nonexpendable equipment should be listed individually by description and estimated cost in the budget narrative. This applies to revised budgets as well, as the equipment item(s) and amount(s) may change.

4. Materials and Supplies. The types of expendable materials and supplies which are required to carry out the project should be indicated in general terms with estimated costs in the budget narrative.

5. Travel. The type and extent of travel and its relationship to project objectives should be described briefly and justified. If travel is proposed, the destination, the specific purpose of the travel, a brief itinerary, inclusive dates of travel, and estimated cost must be provided for each trip. Airfare allowances normally will not exceed round-trip jet economy air accommodations. U.S. flag carriers must be used when available. See 7 CFR 3015. 205(b)(4) for further guidance.

6. Publication Costs/Page Charges. Include anticipated costs associated with publications in a journal (preparing and publishing results including page charges, necessary illustrations, and the cost of a reasonable number of coverless reprints) and audio-visual materials that will be produced. Photocopying and printing brochure, etc., should be shown in Section I., ''All Other Direct Costs'' of Form CSREES–55.

7. Computer (ADPE) Costs. Reimbursement for the costs of using specialized facilities (such as a university- or department-controlled computer mainframe or data processing center) may be requested if such services are required for completion of the work.

8. All Other Direct Costs. Anticipated direct project charges not included in other budget categories must be itemized with estimated costs and justified in the budget narrative. This also applies to revised budgets, as the item(s) and dollar amount(s) may change. Examples may include space rental at remote locations, subcontractual costs, and charges for consulting services, telephone, facsimile, shipping costs, and fees necessary for laboratory analyses. You are encouraged to consult the ''Instructions for Completing Form CSREES–55, Budget,'' of the Application Kit for detailed guidance relating to this budget category. Form AD–1048 must be completed by each subcontractor or consultant and retained by the grantee.

9. Indirect Costs. Section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310) limits indirect costs for this program to 19 percent of total Federal funds provided under each award. Therefore the recovery of indirect costs under this program may not exceed the lesser of the institution's official negotiated indirect cost rate or the equivalent of 19 percent of total Federal funds awarded. Another method of calculating the maximum allowable is 23.456 percent of the total direct costs. If no rate has been negotiated, a reasonable dollar amount (equivalent to or less than 19 percent of total Federal funds requested) in lieu of indirect costs may be requested, subject to approval by USDA.

b. Budget narrative. All budget categories, with the exception of Indirect Costs for which support is requested, must be individually listed (with costs) in the same order as the budget and justified on a separate sheet of paper and placed immediately behind the Budget Form. Explanations of matching funds or lack thereof on commodity-specific projects also are to be included in this section.

c. Matching funds. If an applicant concludes that matching funds are not required as specified under Part I, F, ''Matching Requirements,'' a justification should be included in the budget narrative. CSREES will consider this justification when ascertaining final matching requirements or in determining if required matching can be waived. CSREES retains the right to make final determinations regarding matching requirements.

For those grants requiring matching funds as specified under Part I, F, proposals should include written verification of commitments of matching support (including both cash and in-kind contributions) from third parties. Written verification means:

(a) For any third party cash contributions, a separate pledge agreement for each donation, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) the dollar amount of the cash donation; and (5) a statement that the donor will pay the cash contribution during the grant period; and

(b) For any third party in-kind contributions, a separate pledge agreement for each contribution, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (1) The name, address, and telephone number of the donor; (2) the name of the applicant organization; (3) the title of the project for which the donation is made; (4) a good faith estimate of the current fair market value of the third party in-kind contribution; and (5) a statement that the donor will make the contribution during the grant period.

The sources and amount of all matching support from outside the applicant institution should be summarized on a separate page and placed in the proposal immediately following the Budget Narrative. All pledge agreements must be placed in the

proposal immediately following the summary of matching support.

The value of applicant contributions to the project shall be established in accordance with applicable cost principles. Applicants should refer to OMB Circular A–21, Cost Principles for Educational Institutions, for further guidance and other requirements relating to matching and allowable costs.

13. Current and Pending Support (Form CSREES–663)

All proposals must contain Form CSREES–663 listing other current public or private support (including in-house support) to which personnel (i.e., individuals submitting a vitae in response to item 9.(c) of this part) identified in the proposal have committed portions of their time, whether or not salary support for person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA Programs or agencies. Concurrent submission of identical or similar proposals to the possible sponsors will not prejudice proposal review or evaluation by the CSREES for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or to be funded) by another organization or agency will not be funded under this program. Note that the project being proposed should be included in the pending section of the form.

14. Assurance Statement(s), (Form CSREES–662)

A number of situations encountered in the conduct of projects require special assurances, supporting documentation, etc., before funding can be approved for the project. In addition to any other situation that may exist with regard to a particular project, it is expected that some applications submitted in response to these guidelines will involve the following:

a. Recombinant DNA or RNA research. As stated in 7 CFR 3015.205 (b)(3), all key personnel identified in the proposal and all endorsing officials of the proposing organization are required to comply with the guidelines established by the National Institutes of Health entitled, ''Guidelines for Research Involving Recombinant DNA Molecules,'' as revised. If your project proposes to use recombinant DNA or RNA techniques, you must so indicate by checking the ''yes'' box in Block 19 of Form CSREES–661 (the Cover Page) and by completing Section A of Form CSREES–662. For applicable proposals recommended for funding, Institutional Biosafety Committee approval is required before CSREES funds will be released.

b. Animal care. Responsibility for the humane care and treatment of live vertebrate animals used in any grant project supported with funds provided by CSREES rests with the performing organization. Where a project involves the use of living vertebrate animals for experimental purposes, all key project personnel identified in a proposal and all endorsing officials of the proposing organization are required to comply with the applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary in 9 CFR parts 1, 2, 3, and 4 pertaining to the care, handling, and treatment of these animals. If your project will involve these animals, you should check ''yes'' in block 20 of Form CSREES–661 and complete Section B of Form CSREES–662. In the event a project involving the use of live vertebrate animals results in a grant award, funds will be released only after the Institutional Animal Care and Use Committee has approved the project.

c. Protection of human subjects. Responsibility for safeguarding the rights and welfare of human subjects used in any grant project supported with funds provided by CSREES rests with the performing organization. Guidance on this issue is contained in the National Research Act, Pub. L. 93–348, as amended, and implementing regulations promulgated by the Department under 7 CFR part 1c. If you propose to use human subjects for experimental purposes in your project, you should check the ''yes'' box in Block 21 of Form CSREES–661 and complete Section C of Form CSREES–662. In the event a project involving human subjects results in a grant award, funds will be released only after the appropriate Institutional Review Board has approved the project.

15. Certifications

Note that by signing Form CSREES–661 the applicant is providing the certifications required by 7 CFR part 3017, as amended, regarding Debarment and Suspension and Drug Free Workplace, and 7 CFR part 3018, regarding Lobbying. The certification forms are included in the application package for informational purposes only. These forms should not be submitted with the proposal since by signing Form CSREES–661 your organization is providing the required certifications. If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048 to the grantee organization for retention in their records. This form should not be submitted to USDA.

16. Compliance with the National Environmental Policy Act (NEPA) (Form CSREES–1234)

As outlined in 7 CFR part 3407 (i.e., the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In some cases, however, the preparation of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–1234, ''NEPA Exclusions Form,'' must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefore. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion must be identified. Form CSREES–1234 and supporting documentation should be included as the last page of this proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity, if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

C. Submission of Proposals

1. When to Submit (Deadline Date)

Proposals must be received by COB on May 14, 2001 (5:00 p.m. EST). Proposals received after this date will not be considered for funding.

2. What to Submit

An original and 14 copies must be submitted. In addition submit 10 copies of the proposal's Project Summary. All copies of the proposals and the Project

Summaries must be submitted in one package.

3. Where to Submit

Applicants are strongly encouraged to submit completed proposals via overnight mail or delivery service to ensure timely receipt by the USDA. The address for hand-delivered proposals or proposals submitted using an express mail or overnight courier service is: Integrated Research, Education, and Extension Competitive Grants Program—National Food Safety Initiative; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Centre; 800 9th Street, SW.; Washington, DC 20024.

Proposals sent via the U.S. Postal Service must be sent to the following address: Integrated Research, Education, and Extension Competitive Grants Program—National Integrated Food Safety Initiative; c/o Proposal Services Unit; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; Room 1400 Independence Avenue, SW.; Washington, DC 20024–2245.

D. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged by e-mail. Therefore, applicants are strongly encouraged to provide e-mail addresses, where designated, on the Form CSREES–661. If the applicant's e-mail address is not indicated, CSREES will acknowledge receipt of the proposal by letter.

Once the proposal has been assigned an identification number, please cite that number on all future correspondence. If the applicant does not receive an acknowledgment within 60 days of the submission deadline, please contact the Program Director.

Part IV—Review Process

A. General

Each proposal will be evaluated in a 2-part process. First, each proposal will be screened to ensure that it meets the administrative requirements as set forth in this request for proposals. Second, proposals that meet these requirements will be technically evaluated by a peer review panel.

Peer review panel members will be selected based upon their training and experience in relevant scientific, education or extension fields, taking into account the following factors: (a) The level of formal scientific, technical education, and extension experience of the individual, as well as the extent to which an individual is engaged in relevant research, education and/or extension activities; (b) the need to include as peer reviewers experts from various areas of specialization within relevant scientific, education, and extension fields; (c) the need to include as reviewers other experts (*e.g.*, producers, range or forest managers/operators, and consumers) who can assess relevance of the proposals to targeted audiences and to program needs; (d) the need to include as peer reviewers experts from a variety of organizational types (*e.g.*, colleges, universities, industry, state and Federal agencies, private profit and non-profit organizations), and geographic locations; (e) the need to maintain a balanced composition of peer review groups with regard to minority and female representation and an equitable age distribution; and (f) the need to include members that can judge the effective usefulness to producers and the general public of each proposal.

B. Evaluation Criteria

The evaluation criteria below will be used in reviewing applications submitted in response to this RFP:

(1) Overall merit of the proposal.

(a) The project goal, approach, or hypothesis is conceptually adequate and related to selected priority issues identified in the request for proposals;

(b) Objectives are clearly described and related to selected priority issues identified in the request for proposals;

(c) There is a demonstrated need for the project;

(d) The target audience(s) is identified (where appropriate);

(e) The proposed technique, procedure, or methodology is clearly described;

(f) The technique, procedure, or methodology is suitable and feasible for the proposed project;

(g) The evaluation procedures, or means by which data will be analyzed and interpreted, are clearly described and are suitable for the proposed project;

(h) The expected results or outcomes are clearly stated; and

(i) The probability of success of the project is indicated.

(2) Qualifications of the proposed project personnel, adequacy of the facilities, and budget request.

(a) The roles of all project personnel are clearly defined;

(b) There is evidence that project personnel have sufficient expertise needed to complete the project;

(c) There is evidence of partnerships with other disciplines and institutions;

(d) There is sufficient time allocated for systematic attainment of objectives;

(e) There is evidence of institutional experience and competence in the identified area of work;

(f) There is adequate support personnel, facilities, and instrumentation;

(g) All necessary budget information is provided and all figures are tallied correctly;

(h) The budget narrative provides adequate justification for all budget categories; and

(i) The proposed budget is appropriate for the scope of the project.

(3) The relevance of the proposed project to current issues in food safety and related topical areas.

(a) The relevance to current issues in food safety is described; and

(b) The project makes a unique and original contribution to food safety.

Priority will be given for integrated, multifunctional research, education, and extension projects.

C. Conflicts-of-Interest and Confidentiality

During the peer evaluation process, extreme care will be taken to prevent any actual or perceived conflicts-of-interest that may impact review or evaluation. For the purpose of determining conflicts-of-interest, the academic and administrative autonomy of an institution shall be determined by reference to the 2000 Higher Education Directory, published by Higher Education Publications, Inc., 6400 Arlington Boulevard, Suite 648, Falls Church, Virginia 22042. Phone: (703) 532–2305.

Names of submitting institutions and individuals, as well as proposal content and peer evaluations, will be kept confidential, except to those involved in the review process, to the extent permitted by law. In addition, the identities of peer reviewers will remain confidential throughout the entire review process. Therefore, the names of the reviewers will not be released to applicants. At the end of the fiscal year, names of panelists will be made available in such a way that the panelists cannot be identified with the review of any particular proposal.

Part V—Grant Awards

A. General

Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious under the procedures set forth in this RFP. The date specified by the awarding official of CSREES as the effective date of the grant shall be no later than

September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this RFP shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (parts 3015 and 3019 of 7 CFR).

B. Funding Mechanisms

The two mechanisms by which grants may be awarded are as follows:

(1) Standard grant. This is a funding mechanism whereby the Department agrees to support a specified level of effort for a predetermined time period without the announced intention of providing additional support at a future date.

(2) Continuation grant. This is a funding mechanism whereby the Department agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support will be in the best interests of the Federal government and the public. This kind of mechanism normally will be awarded for an initial one-year period, and any subsequent continuation project grants will be awarded in one-year increments. The award of a continuation project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. Unless prescribed otherwise by CSREES, a grantee must submit a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Decisions regarding continued support and the actual funding levels of such support in future years usually will be made administratively after consideration of such factors as the grantee's progress and management practices and the availability of funds. Since initial peer reviews are based upon the full term and scope of the original application, additional evaluations of this type generally are not required prior to successive years' support. However, in unusual cases (*e.g.*, when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

C. Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this RFP, if such information has not been provided previously under this or another CSREES program. CSREES will provide copies of forms recommended for use in fulfilling these requirements as part of the preaward process.

D. Grant Award Document and Notice of Grant Award

The grant award document shall include at a minimum the following:

(1) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for proposals;

(2) Title of project;

(3) Name(s) and address(es) of PI/PD's chosen to direct and control approved activities;

(4) Identifying grant number assigned by the Department;

(5) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(6) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(7) Legal authority(ies) under which the grant is awarded;

(8) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(9) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

Part VI—Additional Information

A. Access To Review Information

Copies of summary reviews, not including the identity of reviewers, will be sent to the applicant PI/PD after the review process has been completed.

B. Use of Funds; Changes

(1) Delegation of Fiscal Responsibility

Unless the terms and conditions of the grant state otherwise, the grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(2) Changes in Project Plans

(a) The permissible changes by the grantee, PI/PD(s), or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the PI/PD(s) are uncertain as to whether a change complies with this provision, the question must be referred to the CSREES Authorized Departmental Officer (ADO) for a final determination.

(b) Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(c) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

(d) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the ADO prior to effecting such transfers, unless prescribed otherwise in the terms and conditions of the grant.

(e) Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the ADO determines may be necessary to complete or fulfill the purposes of an approved project, but in no case shall the total project period exceed five years. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO, unless prescribed otherwise in the terms and conditions of a grant.

(f) Changes in Approved Budget: Changes in an approved budget must be

requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the grant award.

C. Expected Program Outputs and Reporting Requirements

The grantee must prepare an annual report that details all significant activities towards achieving the goals and objectives of the project. The narrative should be succinct and be no longer than five pages, using 12-point, single-spaced type. The report also should include a listing of any students who worked on the project (report graduate degrees awarded and undergraduates trained, as applicable). A budget summary should be attached to this report, which will provide an overview of all monies spent during the reporting period.

D. Applicable Federal Statutes and Regulations

Several Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include, but are not limited to:

7 CFR Part 1.1—USDA implementation of the Freedom of Information Act.

7 CFR Part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR Part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (*i.e.*, OMB Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Other Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3052—USDA implementation of OMB Circular No. A–133, Audits of States, Local Governments, and Non-profit Organizations.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR Part 15b (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of CSREES transactions, available to the public upon specific request. Information that the Secretary determines to be of a confidential, privileged, or proprietary nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as confidential, privileged, or proprietary should be clearly marked within the proposal. The original copy of a proposal that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Regulatory Information

For the reasons set forth in the final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, this 7th day of March 2001.

Colien Hefferan,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 01–6201 Filed 3–12–01; 8:45 am]

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Federal Register

Tuesday,
March 13, 2001

Part VII

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues for Fiscal Year 2001; Request for Proposals; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues for Fiscal Year 2001; Request for Proposals

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of request for proposals and request for input.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) requests proposals for competitive grant awards under the Special Research Grants Program titled ''Pest Management Alternatives Program: Addressing Food Quality Protection Act Issues for Fiscal Year (FY) 2001.'' This program addresses anticipated changes in pest management on food, feed, livestock, and ornamental commodities resulting from implementation of the Food Quality Protection Act of 1996 (FQPA) and related regulatory actions.

The goals of this program are to develop, test, and implement pest management alternatives and possible mitigation strategies to ensure that crop producers have reliable methods of managing pests considered a high priority under the Food Quality Protection Act (FQPA) and related regulatory actions.

By this notice, CSREES also requests input regarding the FY 2001 Request for Proposals (RFP) for the Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act from any interested party. These comments will be considered in the development of the next RFP for this program. Such comments will be used in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998.

DATES: Proposals must be received by close of business (COB) on May 14, 2001 (5 p.m. EST).

User comments are requested within six months from the issuance of this notice. Comments received after that date will be considered to the extent practicable (see Section VII.C.).

ADDRESSES: Proposals submitted through the U.S. mail should be sent to the following address: Special Research Grants Program—Pest Management Alternatives Research; Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245.

Hand-delivered proposals (brought in person by the applicant or through a courier service) must be delivered to the following address: Special Research Grants Program—Pest Management Alternatives Research; Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Building; 800 9th Street, SW.; Washington, DC 20024. The telephone number is (202) 401–5048. Proposals transmitted via a facsimile (fax) machine will not be accepted.

Written user comments should be submitted by mail to: Policy and Program Liaison Staff; Office of Extramural Programs; USDA–CSREES; STOP 2299; 1400 Independence Avenue, SW., Washington, DC 20250–2299; or via e-mail to: RFP–OEP@reeusda.gov.

FOR FURTHER INFORMATION CONTACT: Dennis D. Kopp, Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2220; 1400 Independence Avenue, SW., Washington, DC 20250–2220. Telephone: (202) 401–6437; fax number: (202) 401–4888; e-mail address: dkopp@reeusda.gov.

Stakeholder Input

CSREES is requesting comments regarding the FY 2001 Special Research Grants Program—Pest Management Alternatives Research RFP from any interested party. In your comments, please include the name of the program and the fiscal year request for proposals to which you are responding. These comments will be considered in the development of the next request for proposals for the program. Such comments will be used in meeting the requirements of section 103(c)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998, 7 U.S.C. 7613(c). Comments should be submitted as provided in the **ADDRESSES** and **DATES** portions of this Notice. The e-mail address in the **ADDRESS** portion is intended only for receiving comments regarding the FY 2001 RFP for this program, and not for requesting information or forms.

SUPPLEMENTARY INFORMATION:

Table of Contents

Part I. General Information
A. Legislative Authority
B. Eligibility
C. Applicant Peer Review Requirements
Part II. Program Description
A. Purpose of the Program
B. Available Funding
C. Program Description
Part III. Proposal Format
A. Application for Funding (Form CSREES–661)
B. Table of Contents
C. Executive Summary
D. Problem Statement
E. Objectives
F. Research, Education, and Technology Transfer Plan
G. Literature Cited
H. User Involvement
I. Facilities and Equipment
J. Collaborative Arrangements
K. Personnel Support
L. Budget
M. Additions to Project Description
N. Current and Pending Support
O. Assurance Statement(s)
P. Peer Review Certification
Q. Other Certifications
R. Compliance with the National Environmental Policy Act
Part IV. How to Obtain Application Materials
Part V. Submission of a Proposal
A. What to Submit
B. Where and When to Submit
C. Acknowledgment of Proposals
Part VI. Selection Process and Evaluation Criteria
A. Selection Process
B. Evaluation Criteria
Part VII. Supplementary Information
A. Confidentiality
B. Other Federal Statutes and Regulations that Apply
C. Additional Information

Part I. General Information

A. Legislative Authority

This program is administered by CSREES, United States Department of Agriculture (USDA). The authority is contained in section (c)(1)(A) of the Competitive, Special, and Facilities Research Grant Act, in section 2 of Pub. L. 89–106, as amended (7 U.S.C. 450i(c)(1)(A)). Under this authority, subject to the availability of funds, the Secretary may make grants, for periods not to exceed three years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for the purpose of conducting research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States.

B. Eligibility

Proposals may be submitted by State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals.

Proposals from scientists affiliated with non-United States organizations are not eligible for funding nor are scientists who are directly or indirectly engaged in the development of pest management tactics for profit; however, their collaboration with funded projects is encouraged.

C. Applicant Peer Review Requirements

Subsection (c)(5) of the Competitive, Special, and Facilities Research Grant Act, as amended (7 U.S.C. 450i(c)(5)), requires applicants to conduct a scientific peer review of a proposed research project in accordance with regulations promulgated by the Secretary prior to the Secretary making a grant award under this authority. Regulations implementing this requirement are set forth in 7 CFR 3400.20. The regulations impose the following requirements for scientific peer review by applicants of proposed research projects:

1. Credible and independent. Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA employees, but should not be conducted solely by USDA employees.

2. Notice of completion and retention of records. A notice of completion of the review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES. The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

3. Renewal and supplemental grants. Review by the grantee is not automatically required for renewal or supplemental grants as defined in 7 CFR 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

Part II. Program Description

A. Purpose of the Program

The Pest Management Alternatives Program (PMAP) was established to support the development and implementation of pest management alternatives when regulatory action by the Environmental Protection Agency (EPA) or voluntary cancellation by the registrant results in the unavailability of certain agricultural pesticides or pesticide uses. These activities pertain to pesticides identified for possible regulatory action under section 210 of the FQPA, Pub. L. No. 104–170, which amended the Federal Insecticide, Fungicide, and Rodenticide Act, or through EPA's pesticide re-registration program. The program has been developed pursuant to the Memorandum of Understanding (MOU) between USDA and EPA signed August 15, 1994, and amended April 18, 1996, which establishes a coordinated framework for these two agencies to support programs that make alternative pest management materials available to agricultural producers. In this MOU, USDA and EPA agreed to cooperate in conducting the research, technology transfer, and registration activities necessary to address pest management alternatives needed in agriculture.

B. Available Funding

The amount available for support of this program in fiscal year (FY) 2001 is approximately $1,500,000. It is anticipated that EPA will also provide support to the program. Section 710 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act for fiscal year 2001, Pub. L. 106–387, prohibits CSREES from paying indirect costs on competitively awarded agricultural research, education, or extension grants that exceed 19 percent of total Federal funds provided for each award. An alternative method of calculation of this limitation is to multiply total direct costs by 23.456 percent.

C. Program Description

This competitive grants program supports efforts to modify existing pest management approaches or develop new methods that address needs created by the implementation of FQPA and related regulatory actions. In FY 2001, CSREES will provide funding for projects that: (1) Identify and develop replacement or mitigation technologies for pesticides with uses that may change or be eliminated through FQPA implementation or related regulatory action, (2) demonstrate promising alternative pest management strategies in the field in close collaboration with interested growers and grower groups, and (3) support outreach activities that promote the implementation of pest management alternatives through education and extension. Proposals that include combinations of the three objectives will also be considered.

The EPA priorities for FQPA tolerance reassessment and reregistration review should be considered in determining needed alternative pest control chemistries and practices. The EPA priorities are given in a June 14, 2000, **Federal Register** notice ''Pesticide Reregistration Performance Measures and Goals'' (65 FR 37375, June 14, 2000) available on EPA web site at: http://www.epa.gov/fedrgstr/EPA–PEST/2000/June/Day-14/p15034.htm. This notice provides the schedule for completion of regulatory review for high priority chemicals. The overall priorities for FQPA review are given on the EPA web site at: http://www.epa.gov/oppfead1/fqpa/toleran.htm.

Activities funded by the PMAP could address work needed to facilitate grower knowledge and adoption of reduced risk pesticides that are newly-registered or are candidates for registration. Recently-registered chemical pesticides are identified in annual reports on the web site of the EPA Office of Pesticide Programs at: http://www.epa.gov/pesticides. Chemical pesticides that are candidates for registration in fiscal year 2001 are named in the interim work plan of the EPA Registration Division. The interim work plan is available on the web site at: http://www.epa.gov/opprd001/workplan. Twenty-five new chemicals are included in the work plan in addition to many new uses for 64 already-registered chemicals. The work plan provides the trade name, crops, and company for each chemical and identifies those chemicals that qualified for the EPA reduced-risk status. Biopesticides that are recently-registered and those under consideration for registration are identified on the web site at: http://www.epa.gov/pesticides/biopesticides.

Updates to EPA pesticide priority review and registration lists are available at: http://www.epa.gov/pesticides. EPA also issues an electronic newsletter that will announce updates. Sign-up information for the electronic newsletter is available at: http://www.epa.gov/pesticides.

Proposals should show substantial evidence that producers, commodity groups, and other affected user groups are actively involved in some or all of the following activities: (a) Needs assessment, (b) priority setting, (c)

project design; and that they will be supportive of the project if it is funded. Public-private partnerships and matching resources from non-Federal sources, including producer or commodity groups, are encouraged. All proposals must include an outreach component. The amount of outreach activities increases from Objective I to Objective III below. Proposals should show potential for commercialization (including product registration if necessary) of any new technologies that are developed.

The three project objectives in FY 2001 are as follows:

I. Replacement or Mitigation Technologies: The focus should be on modification of existing approaches or introduction of new methods, especially biologically based methods, that can be rapidly brought to bear on pest management challenges resulting from implementation of FQPA and related regulatory actions. Durability and practicality of the proposed pest management option(s) or mitigation procedure(s), and compatibility with integrated pest management systems, are critical. Both technological and economic feasibility should be considered. Pest management alternatives or risk mitigation options identified should address various risk concerns including dietary, occupational and non-occupational exposure, ground and/or surface water, and other ecological risks. Applicants must document that a crop profile has been or is being developed for the crop targeted in the proposal, or otherwise provide compelling evidence as to the importance of their proposed research.

II. Demonstration Projects: The focus should be on technologies or mitigation strategies that have been developed and show promise, but require field demonstration.

III. Outreach Activities: An additional objective of the program in FY 2001 is to promote the exchange of pest management information related to FQPA implementation and related regulatory actions between researchers, extension agents, growers, and any other affected parties by offering one time support for publications, website development, regional workshops or other relevant activities during the FY 2001 funding cycle. The total available funding for proposals addressing only outreach activities will be no more than 10% of the total program budget.

Note: In FY 2001, PMAP is complemented by two FQPA-related pest management competitive grant programs administered by CSREES under the Integrated Research, Education, and Extension Competitive Grants Program, under section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626). These programs are the Crops at Risk (CAR) from FQPA Implementation program and the FQPA Risk Mitigation for Major Food Crop Systems program (RAMP). Both programs extend the horizon for successful development of alternatives from generally less than 2 years in the case of PMAP to between 2 to 4 years for CAR, and up to 5 years for RAMP. CAR will support intermediate-term research and implementation that provides a transition for the most vulnerable crops or cropping systems at risk because of FQPA. RAMP will support multi-state, long-term, biointensive research to enhance stability and sustainability of pest management systems of major food crop systems placed at risk because of FQPA. Also note that the development of replacements for methyl bromide is supported by the Methyl Bromide Transitions (MBT) Program, another program within the Integrated Research, Education, and Extension Competitive Grants Program. MBT is designed to support the discovery and implementation of practical pest management alternatives for commodities affected by the methyl bromide phase-out. PMAP is unable to consider proposals which better fit the eligibility of CAR, RAMP, or MBT. Contact Dennis D. Kopp (telephone: (202) 401–6437; fax:(202) 401–4888; e-mail address: dkopp@reeusda.gov) if you have questions about which program is most appropriate for your proposal.

Part III. Proposal Format

Each project description shall be complete in itself. The administrative provisions governing the Special Research Grants Program, 7 CFR Part 3400, set forth instructions for the preparation of grant proposals. The following requirements deviate from those contained in section 3400.4(c). The following provisions of this solicitation shall apply. Proposals should adhere to the format requirements for the specific objective addressed by the proposal format below. Sections A. through F. should be no more than 12 pages in length, numbered, and single-spaced with text on one side of the page using a 12 point (10 cpi) type font size and one-inch margins.

A. Application for Funding (Form CSREES–661)

All proposals must contain an Application for Funding (Form CSREES–661), which must be signed by the proposed principal investigator(s) and by the cognizant Authorized Organizational Representative (AOR) who possesses the necessary authority to commit the applicant's time and other relevant resources. Principal investigators who do not sign the proposal cover sheet will not be listed on the grant document in the event an award is made. The title of the proposal must be brief (80-character maximum), yet represent the major emphasis of the project. Because this title will be used to provide information to those who may not be familiar with the proposed project, highly technical words or phraseology should be avoided where possible. In addition, phrases such as ''investigation of'' or ''research on'' should not be used.

B. Table of Contents

For ease in locating information, each proposal must contain a detailed table of contents just after the proposal cover page. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

C. Executive Summary

Describe the project in terms that can be understood by a diverse audience of university personnel, producers, various public and private groups, budget staff, and the general public. This should be on a separate page, no more than one page in length and have the following format: Name(s) of principal investigator(s) and institutional affiliation, project title, key words, and project summary.

D. Problem Statement

Identify the pest management problem addressed, its significance, and options for solution. Identify the commodity(ies) and the pesticides that will be addressed by the proposed project. EPA has published in the **Federal Register** several lists of pesticides they consider high priority for review. Proposals that address pesticides on these lists will have priority (see Part VI.A.). Define the production area addressed, its size (including acreage), frequency and severity of losses to pests controlled with priority pesticides, and the potential applicability of this study to other production regions. As appropriate, proposals should address issues as they relate to current integrated pest management and crop production practices, technologic and economic feasibility of potential new practices, and their potential durability.

E. Objectives

Provide clear, concise, complete, and logically arranged statements of the specific aims of the proposed effort.

F. Research, Education, and Technology Transfer Plan

This section is needed only if the proposed project includes development

of replacement or mitigation technologies (Objective I.). Proposals should provide a credible detailed plan for the research, education, and technology transfer required for implementation within the next two to four years of the alternative solution in the field, and should identify milestones of project accomplishments.

G. Literature Cited

A concise list of key references cited in the proposal should be included in this section.

H. User Involvement

Describe the role of producers, commodity groups, and other end-users in identifying the need for the work being proposed, and their anticipated involvement in the project if funded. Competitive proposals will demonstrate involvement of affected user groups in project design, implementation, and funding.

I. Facilities and Equipment

All facilities and major items of equipment that are available for use or assignment to the proposed research project during the requested period of support should be described. In addition, items of nonexpendable equipment not currently accessible and necessary to conduct and successfully complete the proposed project should be listed with the amount and justification for each item.

J. Collaborative Arrangements

If the nature of the proposed project requires collaboration or subcontractual arrangements with other research scientists, corporations, organizations, agencies, or entities, the applicant must identify the collaborator(s) and provide a full explanation of the nature of the collaboration. Funding contributions by collaborators that will be used to accomplish the stated objectives should be identified. Evidence (i.e., letters of intent) should be provided to assure peer reviewers that the collaborators involved have agreed to render this service. In addition, the proposal must indicate whether or not such a collaborative arrangement(s) has the potential for conflict(s) of interest.

K. Personnel Support

To assist peer reviewers in assessing the competence and experience of the proposed project staff, key personnel who will be involved in the proposed project must be clearly identified. For each principal investigator involved, and for all senior associates and other professional personnel who are expected to work on the project, whether or not funds are sought for their support, the following should be included:

(i) An estimate of the time commitments necessary.

(ii) Curriculum vitae. A concise curriculum vitae for all Principal Investigators is required and should be limited to 2 pages. The vitae should document academic and research experiences, commodity production knowledge and experience (e.g., educational, employment and professional history, and honors and/or awards). Unless pertinent to the project, to personal status, or to the status of the organization, meetings attended, seminars given, or personal data such as birth date, marital status, or community activities should not be included. Each vita shall be no more than two pages in length, excluding the publication lists.

(iii) Publication list(s). A chronological list of all publications in refereed journals during the past four years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Authors should be listed in the same order as they appear on each paper cited. Standard scientific journal citation format should be used for all references.

L. Budget

A detailed budget is required for each year of requested support. In addition, a summary budget is required detailing requested support for the overall project period. A copy of the form which must be used for this purpose (Form CSREES–55), along with instructions for completion, is included in the Application Kit and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested may be identified as necessary for successful conduct of the proposed project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute. However, the recovery of indirect costs under this program may not exceed the lesser of the grantee institution's official negotiated indirect cost rate or the equivalent of 19 percent of total Federal funds awarded. This limitation also applies to the recovery of indirect costs by any sub-awardee or subcontractor, and should be reflected in the sub-recipient budget. Successful PIs, or their designated representative, and an end-user/beneficiary of the proposed activities will be required to participate in one regional outreach activity, i.e. workshop, field day, or growers meeting, approved by the CSREES program manager during the course of the project. Participation in regional workshops supported by this program should be given priority when planning outreach commitments. Travel support for two individuals per project to meet this requirement should be included in the budget. Proposals that request more than 10% of the total program budget (see Part II.B.) are required to provide additional justification and will be strictly scrutinized during the review process.

Note: For projects awarded under the authority of Sec. 2(c)(1)(A), no funds will be awarded for the renovation or refurbishment of research spaces; the purchase or installation of fixed equipment in such spaces; or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

M. Additions to Project Description

The Administrator of CSREES, the members of peer review groups, and the relevant program staff expect each project description to be complete within the page limit established in this section (Proposal Format). However, if the inclusion of additional information is necessary to ensure the equitable evaluation of the proposal (e.g., photographs that do not reproduce well, reprints, and other pertinent materials that are deemed to be unsuitable for inclusion in the text of the proposal), then 20 copies of the materials should be submitted. Each set of such materials must be identified with the name of the submitting organization, and the name(s) of the principal investigator(s). Information may not be appended to a proposal to circumvent page limitations prescribed for the project description. Extraneous materials will not be used during the peer review process.

Note: Specific organizational management information relating to an applicant shall be submitted on a one-time basis prior to the award of a grant for this program if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. If necessary, USDA will contact an applicant to request organizational management information once a proposal has been recommended for funding.

N. Current and Pending Support

All proposals must contain Form CSREES–663 listing this proposal and any other current public or private research support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for the person(s) involved is included in the budget for each project. Analogous information must be provided for any

pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation by the Administrator of CSREES for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program.

O. Assurance Statement(s)

If it is anticipated that the research project will involve recombinant DNA or RNA research, experimental vertebrate animals, or human subjects, an Assurance Statement, Form CSREES–662, must be completed and included in the proposal. Please note that grant funds will not be released until CSREES receives and approves documentation indicating approval by the appropriate institutional committee(s) regarding DNA or RNA research, animal care, or the protection of human subjects, as applicable.

P. Peer Review Certification

By signing the Application for Funding form, the AOR of the applicant institution is providing the required certification that the full proposal has received a credible and independent peer review arranged by the institution (see Part I.C.).

Q. Other Certifications

Note that by signing the Application for Funding form the applicant is providing the required certifications set forth in 7 CFR part 3017, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR part 3018, regarding Lobbying. The certification forms are included in this application package for informational purposes only. These forms should not be submitted with your proposal since by signing the Form CSREES–661 your organization is providing the required certifications.

If the project will involve a subcontractor or consultant, the subcontractor/consultant should submit a Form AD–1048 to the grantee organization for retention in their records. This form should not be submitted to USDA.

R. Compliance With the National Environmental Policy Act

As outlined in 7 CFR part 3407 (CSREES's implementing regulations of the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 et seq.), environmental data or documentation for the proposed project is to be provided to CSREES in order to assist CSREES in carrying out its responsibilities under NEPA. These responsibilities include determining whether the project requires an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) or whether it can be excluded from this requirement on the basis of one or more of the categorical exclusions listed in 7 CFR 3407.6. To assist CSREES in this determination, the applicant should review the categories defined for exclusion to ascertain whether the proposed project may fall within one of the exclusions.

Form CSREES–1234, NEPA Exclusions Form (copy in Application Kit), indicating the applicant's opinion of whether or not the project falls within one or more categorical exclusions, along with supporting documentation, must be included in the proposal. The information submitted in association with NEPA compliance should be identified in the Table of Contents as ''NEPA Considerations'' and Form CSREES–1234 and supporting documentation should be placed after the Form CSREES–661, Application for Funding, in the proposal.

Even though the applicant considers that a proposed project may fall within a categorical exclusion, CSREES may determine that an EA or an EIS is necessary for an activity if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present that may cause such activity to have a significant environmental effect.

Part IV. How To Obtain Application Materials

Copies of this solicitation, the administrative provisions for the Program (7 CFR part 3400), and the Application Kit, which contains required forms, certifications, and instructions for preparing and submitting applications for funding, may be obtained by contacting: Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245; telephone: (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting forms for the Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues.

Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the FY 2001 Special Research Grants Program—Pest Management Alternatives Research: Special Program Addressing Food Quality Protection Act Issues. The materials will then be mailed to you (not e-mailed) as quickly as possible.

Part V. Submission of a Proposal

A. What To Submit

An original and 20 copies of a proposal must be submitted. Each copy must be stapled securely in the upper left-hand corner (DO NOT BIND). All copies of the proposal must be submitted in one package.

B. Where and When To Submit

Proposals must be received by COB on May 14, 2001 (5:00 p.m. EST). Proposals submitted by mail must be sent to the following address: Special Research Grants—Pest Management Alternatives Program; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Mail STOP 2245; 1400 Independence Avenue, SW.; Washington, DC 20250–2245; telephone: (202) 401–5048.

Proposals to be delivered by Express mail, courier service, or by hand must be sent to the following address: Special Research Grants—Pest Management Alternatives; c/o Proposal Services Unit; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 1307, Waterfront Building; 800 9th Street, SW.; Washington, DC 20024; telephone: (202) 401–5048.

C. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged by e-mail, therefore applicants are encouraged to provide e-mail addresses, where designated, on the Form CSREES–661. The acknowledgment will contain an identifying proposal number. Once your proposal has been assigned a proposal number, please cite that number in all future correspondence.

Part VI. Selection Process and Evaluation Criteria

A. Selection Process

Priority will be given to proposals that address pesticides currently under regulatory review or being evaluated by

EPA (see Part II.C.). Proposals will be evaluated for relevancy , methodology and scientific rigor by a peer panel with appropriate expertise. Panel members will include representatives with appropriate scientific backgrounds from land-grant universities, USDA, EPA, and other organizations representative of the breadth of the program's stakeholders. Funding determinations will be based on, subject to the availability of funds, the proposals receiving the highest combined relevancy and scientific merit scores.

B. Evaluation Criteria

1. Relevance to Program Objectives (30 points). Factors that will be considered include: importance of the crop/pest combination (particularly agronomic and economic considerations), number of crops and pesticides addressed, user involvement in planning and implementation, potential for rapid integration (within 3 years) into production practices, and demonstration of consideration of existing IPM programs.

2. Importance of the Problem (Problem Statement) (particularly ecological and agronomic considerations) (10 points)

3. Appropriateness of Methods in Meeting Objectives (15 points)

4. Feasibility of Attaining Project Objectives Within the Time Period Allotted. (10 points)

4. Potential to Reduce Reliance (15 points)

5. Level of User Involvement (10 points)

6. Appropriateness of the Budget (10 points)

Part VII. Supplementary Information

A. Confidentiality

CSREES receives grant proposals in confidence and will protect the confidentiality of their contents to the maximum extent permitted by law. Information contained in unfunded proposals will remain the property of the applicant. However, CSREES will retain one copy of all proposals received for a one year period; extra copies will be destroyed.

When a proposal results in a grant, it becomes a part of the public record, available to the public upon specific request under the Freedom of Information Act (FOIA). Information that the Secretary of Agriculture determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked by the applicant with the term ''confidential proprietary information.''

B. Other Federal Statutes and Regulations That Apply

This program is subject to the administrative provisions for the Special Research Grants Program found in 7 CFR Part 3400, which set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, the processes regarding the awarding of grants, and regulations relating to the post-award administration of such grants. However, where there are differences between this RFP and the administrative provisions, this RFP shall take precedence to the extent that the administrative provisions authorize such deviations. Other Federal statutes and regulations apply to grant proposals considered for review or to grants awarded under this program. These include, but are not limited to:

7 CFR Part 3019—USDA Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and

7 CFR Part 3052—Audits of States, Local Governments, and Non-Profit Organizations.

C. Additional Information

For reasons set forth in the final rule-related Notice to 7 CFR part 3015, subpart V, (48 FR 29115, June 24, 1983) this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. Under the provisions of the Paperwork Reduction Act of 1995, as amended (44 U.S.C. chapter 35), the collection of information requirements contained in this Notice have been approved under OMB Document No. 0524–0022.

Done at Washington, DC, this 7th day of March 2001.

Colien Hefferan.

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 01–6202 Filed 3–12–01; 8:45 am]

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Federal Register

Vol. 66, No. 49

Tuesday, March 13, 2001

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FEDERAL REGISTER PAGES AND DATE, MARCH

12843–12992 1
12993–13226 2
13227–13388 5
13389–13644 6
13645–13838 7
13839–14070 8
14071–14298 9
14299–14478 12
14479–14824 13

CFR PARTS AFFECTED DURING MARCH

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

Proclamations:
7408 12989
7409 12991
7410 13639
7411 13641
7412 13643
7413 14067
7414 14069
7415 14477

Administrative Orders:
Memorandums:
Memorandum of March 5, 2001 14453
Presidential Determinations:
No. 2001-12 of March 1, 2001 14454

5 CFR

1605 14446

7 CFR

932 13389
956 13391
966 13394
982 13396
1210 13400
1421 13402
1469 13839
1470 13839
1481 14479

Proposed Rules:
Ch. I 13267
Ch. VIII 13267
923 13447
993 13454
1439 13679

10 CFR

72 ..... 13407, 14483

Proposed Rules:
50 13267
72 ..... 13459, 14503

11 CFR

Proposed Rules:
100 13681

12 CFR

205 13409
346 14071
516 12993
517 12993
543 12993
544 12993
545 12993
550 12993
552 12993
555 12993
559 12993
560 12993
562 12993
563 12993
563b 12993
563f 12993
565 12993
567 12993
574 12993
575 12993
584 12993
620 14299

Proposed Rules:
915 14093
917 14093
925 14093
930 14093
931 14093
932 ..... 13688, 14093
933 14093
956 14093
966 14093

14 CFR

25 12843
39 ..... 13010, 13227, 13229, 13232, 13413, 13414, 13416, 13418, 13422, 13424, 13635, 14301, 14304, 14306, 14308, 14310
71 13011
97 ..... 14312, 14314

Proposed Rules:
25 14504
39 ..... 12913, 13184, 13186, 13189, 13192, 13195, 13198, 13201, 13204, 13207, 13210, 13213, 13216, 13219, 13223, 13269, 13271, 13858, 14094, 14096, 14345, 14346, 14348
255 13860

15 CFR

738 12845
740 12845
744 12845
746 12845

16 CFR

4 13645
1500 13645

Proposed Rules:
432 12915

17 CFR

239 13234
240 13234
270 13234
274 ..... 13234, 14071

Proposed Rules:
Ch. II 13273
1 ..... 14262, 14507
5 14262
15 14262

36.....14262
37.....14262
38.....14262
40.....14262
41.....14262
100.....14262
166.....14262
170.....14262
188.....14262
190.....14507

18 CFR

157.....14486
Proposed Rules:
284.....13689

20 CFR

403.....14315

21 CFR

10.....12848
14.....12848
16.....12848
172.....13652, 13846
175.....13653
176.....13653
178.....13653
203.....12850
205.....12850
510 .....13426, 13847, 14072
520 .....13848, 14072, 14316
522.....13235, 14072
524 .....13236, 13848, 14072
526.....14072
558 .....13236, 13238, 14072
884.....14074
Proposed Rules:
1304.....13274
1305.....13274
1306.....13274
1311.....13274

23 CFR

658.....13012

25 CFR

Proposed Rules:
542.....12916

26 CFR

1 .....12853, 13013, 13427, 13429, 13635
53.....13013
54.....14076
301.....13013
Proposed Rules:
1 .....12916, 13050, 13864, 14350, 14351, 14443, 14512
31.....13275

27 CFR

9.....13429
19.....12853
21.....12853
22.....13014
275.....13849
Proposed Rules:
275.....13864

28 CFR

25.....12854

29 CFR

2590.....14076

30 CFR

816.....14316
817.....14316
934.....13015
Proposed Rules:
917.....13275
938.....13277

31 CFR

Proposed Rules:
1.....13865

32 CFR

199.....12855

33 CFR

100.....13238, 13431
117 .....13239, 13433, 14487
165 .....13851, 13853, 14488, 14490
Proposed Rules:
117.....13460
165.....13030, 13867

34 CFR

361.....13239
Proposed Rules:
50.....13034

37 CFR

Proposed Rules:
255.....14099

38 CFR

3.....13435
19.....13437
Proposed Rules:
17.....13461
19.....13463

39 CFR

Proposed Rules:
20.....13868

40 CFR

52 .....13854, 14078, 14087, 14318, 14492
55.....12982
60.....12871, 13438
63.....14320
70.....12872
71.....12972
72.....12974
74.....12974
78.....12974
81 .....14078, 14087, 14492
82.....13655, 14760
180.....14326, 14330
Proposed Rules:
52.....14103, 14512
55.....12986
63.....13464, 14352
70.....12916
71.....12916
72.....12979
74.....12979
78.....12979
81.....14103, 14512
82.....14771

42 CFR

410.....13020, 13021
412.....13020, 13021
413 .....13020, 13021, 14342
422.....13854, 14342
435.....14343
485.....13020, 13021

44 CFR

65.....13240, 13263

45 CFR

146.....14076

47 CFR

64.....12917
73 .....12894, 12895, 12896, 12897, 13855, 13856
90.....13020, 13023
Proposed Rules:
1.....14104
22.....14104
43.....13690
51.....13279
73 .....12920, 12921, 12922, 13691, 13870, 14513

48 CFR

Ch. 1.....14260
19.....13856
1516.....12897
Proposed Rules:
904.....13473
952.....13473
970.....13473

49 CFR

Proposed Rules:
229.....13474

50 CFR

17.....13656, 14626
622.....13440
635.....13441
648.....12902, 13025
679 .....12912, 13029, 13266, 13671, 13672, 13856, 14343
697.....13443, 14500
Proposed Rules:
17 .....13474, 13691, 14107
18.....14352
300.....13480
600.....13279, 13870
622.....13692
635.....13692
648 .....13279, 13281, 13694, 13695
660 .....13035, 13483, 14353

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 MARCH 13, 2001

AGRICULTURE DEPARTMENT

Forest Service

Special areas:

Roadless area conservation; published 1-12-01

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Pulp and paper production—

Kraft, soda, sulfite, and stand-alone semichemical pulp mills; chemical recovery combustion sources; published 1-12-01

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Mississippi; published 2-9-01

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicaid:

Hospital, nursing facility, intermediate care facility for mentally retarded, and clinic services; upper payment limit requirements; published 1-12-01

Medicare:

Nursing and allied health education programs; payment policy; published 1-12-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Pilatus Aircraft Ltd.; published 1-29-01

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Treasury securities and other debt instruments, reopenings; original issue discount; published 1-12-01

Correction; published 3-1-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Federal Seed Act:

National Organic Program; establishment; comments due by 3-21-01; published 12-21-00

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Karnal bunt; comments due by 3-19-01; published 1-16-01

West Indian fruit fly; comments due by 3-23-01; published 1-22-01

Plant-related quarantine, foreign:

Mangoes from Philippines; comments due by 3-23-01; published 1-22-01

COMMERCE DEPARTMENT

International Trade Administration

Worsted wool fabric imports; tariff rate quota implementation; comments due by 3-23-01; published 1-22-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Southern California steelhead; comments due by 3-22-01; published 2-21-01

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands and Gulf of Alaska groundfish and king and tanner crab; comments due by 3-19-01; published 1-17-01

Caribbean, Gulf, and South Atlantic fisheries—

Gulf of Mexico reef fish and Gulf of Mexico and South Atlantic coastal migratory pelagic resources; comments due by 3-23-01; published 2-1-01

Northeastern United States fisheries—

Atlantic bluefish; comments due by 3-23-01; published 2-21-01

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Electronic and information technology accessibility; comments due by 3-23-01; published 1-22-01

EDUCATION DEPARTMENT

Student financial assistance programs; electronic records retention; performance standards; comments due by 3-19-01; published 3-2-01

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Test procedures—

Central air conditioners and heat pumps; comments due by 3-23-01; published 1-22-01

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Texas; comments due by 3-19-01; published 1-18-01

Public information and confidential business information; withdrawal; comments due by 3-21-01; published 12-21-00

Superfund program:

National oil and hazardous substances contingency plan—

National Priorities List update; comments due by 3-19-01; published 2-15-01

National Priorities List update; comments due by 3-19-01; published 2-15-01

National Priorities List update; comments due by 3-19-01; published 2-15-01

National Priorities List update; comments due by 3-19-01; published 2-15-01

Water supply:

National primary and secondary drinking water regulations—

Pollutants analysis; test procedures; guidelines establishment; comments due by 3-19-01; published 1-16-01

Pollutants analysis; test procedures; guidelines establishment; comments due by 3-19-01; published 1-16-01

FARM CREDIT ADMINISTRATION

Farm credit system:

Organization, general provisions, and disclosure to shareholders—

National charters; requirements; comments due by 3-19-01; published 2-16-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Federal-State Joint Board on Universal Service—

Local telephone service competition status and advanced telecommunications capability (broadband) deployment; comments due by 3-19-01; published 2-15-01

Wireless telecommunications services—

Rural service areas licensing; competitive bidding rules; comments due by 3-19-01; published 3-9-01

Digital television stations; table of assignments:

Montana; comments due by 3-19-01; published 2-1-01

Oregon; comments due by 3-19-01; published 2-1-01

Texas; comments due by 3-19-01; published 2-1-01

Padio services, special:

Private land mobile radio services—

700 MHz public safety band general use channels; 6.25 kHz technology; comments due by 3-19-01; published 2-16-01

Radio stations; table of assignments:

Colorado; comments due by 3-19-01; published 2-9-01

Various States; comments due by 3-19-01; published 2-16-01

FEDERAL TRADE COMMISSION

Hart-Scott-Rodino Antitrust Improvements Act:

Premerger notification; reporting and waiting period requirements; comments due by 3-19-01; published 2-1-01

Pracitce and procedure:

Premerger notification requirements; additional information or documentary material requests; internal agency review; comments due by 3-19-01; published 2-1-01

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Electronic and information technology accessibility; comments due by 3-23-01; published 1-22-01
HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Human drugs and biological products:
Prescription drug products; labeling requirements; comments due by 3-22-01; published 12-22-00
HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicaid:
Psychiatric residential treatment facilities providing psychiatric services to individuals under age 21; use of restraint and seclusion; comments due by 3-23-01; published 1-22-01
INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
Wenatchee Mountains checker-mallow; comments due by 3-19-01; published 1-18-01
Picture-wing flies (12 species) from Hawaiian Islands; comments due by 3-19-01; published 1-17-01
INTERIOR DEPARTMENT
National Park Service
Special regulations:
Wupatki National Monument, AZ; golden eaglets; religious ceremonial collection by Hopi Tribe; comments due by 3-23-01; published 1-22-01
INTERIOR DEPARTMENT
Surface Mining Reclamation and Enforcement Office
Permanent program and abandoned mine land reclamation plan submissions:
Oklahoma; comments due by 3-19-01; published 2-15-01
Pennsylvania; comments due by 3-19-01; published 2-15-01
JUSTICE DEPARTMENT
Immigration and Naturalization Service
Immigration:
Foreign health care workers; additional authorization to issue certificates; comments due by 3-19-01; published 1-16-01
LABOR DEPARTMENT
Employment Standards Administration
Fair Labor Standards Act:
Domestic service; companionship services exemption; comments due by 3-20-01; published 1-19-01
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Electronic and information technology accessibility; comments due by 3-23-01; published 1-22-01
PERSONNEL MANAGEMENT OFFICE
Employment:
District of Columbia Department of Corrections displaced employees; Federal priority consideration program; comments due by 3-23-01; published 1-22-01
Recruitment and relocation bonuses and retention allowances; comments due by 3-20-01; published 1-19-01
POSTAL SERVICE
Domestic Mail Manual:
Packaging security standards; preparation changes; comments due by 3-22-01; published 2-20-01
Postage meters:
Semipostal stamp program; comments due by 3-19-01; published 2-15-01
SOCIAL SECURITY ADMINISTRATION
Social security benefits and supplemental security income:
Federal old age, survivors, and disability insurance, and aged, blind, and disabled—
New disability claims process; comments due by 3-20-01; published 1-19-01
TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
Florida; comments due by 3-23-01; published 1-22-01
TRANSPORTATION DEPARTMENT
Computer reservation systems, carrier-owned; comments due by 3-19-01; published 3-8-01
TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 3-19-01; published 2-15-01
Bell et al.; comments due by 3-23-01; published 1-22-01
BMW Rolls-Royce GmbH; comments due by 3-19-01; published 1-16-01
Boeing; comments due by 3-23-01; published 1-22-01
British Aerospace; comments due by 3-19-01; published 2-21-01
Cessna; comments due by 3-21-01; published 2-6-01
MD Helicopters, Inc.; comments due by 3-23-01; published 1-22-01
Sikorsky; comments due by 3-19-01; published 1-18-01
Class E airspace; comments due by 3-22-01; published 2-20-01
TRANSPORTATION DEPARTMENT
Federal Motor Carrier Safety Administration
Motor carrier safety standards:
Protection against shifting and falling cargo; North American standard development; comments due by 3-19-01; published 12-18-00
TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Fuel economy standards:
Corporate relationship changes; manufacturers rights and responsibilities; comments due by 3-23-01; published 1-22-01
Motor vehicle safety standards:
Motor vehicle brake fluids; comments due by 3-19-01; published 1-16-01
Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act; implementation:
Defective motor vehicles and equipment; early warning reporting requirements; comments due by 3-23-01; published 1-22-01
TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Trust treated as part of estate; election; comments due by 3-19-01; published 12-18-00

LIST OF PUBLIC LAWS

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H.J. Res. 7/P.L. 107–1

Recognizing the 90th birthday of Ronald Reagan. (Feb. 15, 2001; 115 Stat. 3)

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