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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS No. 2220–02]

RIN 1115–AG75

Reduced Course Load for Certain F and M Nonimmigrant Students in Border Communities

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations governing F and M nonimmigrants. This rule will clarify that Mexican or Canadian nationals who reside outside the United States and regularly commute across a land border to study may do so on a part-time basis within the F or M nonimmigrant category. These changes are being made to facilitate and legitimize certain part-time study along border communities while ensuring that all applicable requirements and safeguards are met.

DATES: *Effective date:* This interim rule is effective August 27, 2002.

Comment date: Written comments must be submitted on or before October 28, 2002.

ADDRESSES: Please submit written comments to the Director, Regulations and Forms Services Division, Immigration and Naturalization Service, 425 I Street, NW., Room 4034, Washington, DC 20536. To ensure proper handling, please reference INS No. 2220–02 on your correspondence. Comments may also be submitted electronically to the Service at *insregs@usdoj.gov.* When submitting comments electronically, you must include INS No. 2220–02 in the subject heading so that the comments can be electronically routed to the appropriate office for review. Comments may be inspected at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Maura Deadrick, Adjudications Division, Immigration and Naturalization Service, 425 I Street NW., Room 3040, Washington, DC 20536, telephone (202) 514–3228.

SUPPLEMENTARY INFORMATION:

Who Are F and M Nonimmigrants?

The Immigration and Nationality Act (Act) provides for the admission of various classifications of nonimmigrant aliens who are foreign nationals having a residence in a foreign country which they have no intention of abandoning, and who are seeking temporary admission to the United States. The purpose of the nonimmigrant alien's intended stay in the United States determines his or her proper nonimmigrant classification.

F–1 nonimmigrant aliens, as defined in section 101(a)(15)(F) of the Act, are foreign students who have been admitted to the United States to pursue a full course of study in a college, university, seminary, conservatory, academic high school, private elementary school, other academic institution, or language training program in the United States that has been approved by the Service to enroll foreign students. For the purposes of this rule, the term ''school'' refers to all of these types of Service-approved institutions.

An F–2 nonimmigrant alien is a foreign national who has been admitted to the United States as the spouse or qualifying child (under the age of 21) of an F–1 nonimmigrant alien.

M–1 nonimmigrant aliens, as defined in section 101(a)(15)(M) of the Act, are foreign nationals who have been admitted to the United States to pursue a full course of study at a Service-approved vocational school or other recognized nonacademic institution (other than in language training programs) in the United States. The term ''school'' for the purposes of this interim rule also encompasses all institutions approved for attendance by M–1 students. An M–2 nonimmigrant alien is a foreign national who is the spouse or qualifying child (under the age of 21) of an M–1 nonimmigrant alien.

Why Is the Service Promulgating This Rule?

Recognizing the unique nature of border communities and the need to serve the educational interests of students living on both sides of the U.S./Canada and U.S./Mexico borders, this rule expands the circumstances under which a border commuter student who is a national of Canada or Mexico may be admitted as an F–1 or M–1 nonimmigrant alien to engage in a full course of study, albeit with a reduced course load.

Historically, the Service has not officially sanctioned such part-time study for border commuter students. First, the statutory definition of the B nonimmigrant visitor classification, in section 101(a)(15)(B) of the Act, precludes admission of an individual coming to the United States to study. Moreover, the Service has always interpreted the statutory definitions of the F and M classifications, relating to students pursuing a full course of study, to require enrollment on a full-time basis as defined in the regulations, which did not cover part-time border commuter students.

However, this regulatory scheme has aligned poorly with the realities of the border communities, effectively creating a ''Catch-22'' situation for bona fide part-time border commuter students. This has resulted in uneven application of this policy on the border. In fact, it has become commonplace for aliens residing in Canada or Mexico to enroll part-time in border institutions and enter the United States as visitors on a daily basis to pursue part-time study.

The response to the terrorist attacks of September 11, 2001, has resulted in increased scrutiny at ports-of-entry and in renewed focus on the integrity of our immigration system. There has been particular attention to the proper use of the B visitor classification. When the principal purpose for entering the United States is to attend school, the immigration laws intend that aliens be classified as nonimmigrant students, not as B visitors for business or pleasure.

Therefore, the purpose of this rule is to recognize the special relationship between the United States and its neighbors and to legitimize such study by border commuter students, while placing it within a regulated, controlled

process. As nonimmigrant students, they will be authorized to attend only schools approved by the Service to accept foreign students. A border commuter student is subject to all requirements applicable to the F or M nonimmigrant classification and will be processed through the existing framework for these classifications. This includes, among other things, obtaining the appropriate Form I–20, Certificate of Eligibility for Nonimmigrant Student Status, and obtaining the appropriate visa, unless exempt. The schools will be required to comply with the same reporting and recordkeeping requirements for these part-time border commuter students as for full-time F–1 or M–1 students.

This rule will prevent the significant disruption of part-time study that has become an accepted fact of life along the border and a settled expectation. For example, it is reported that the El Paso Community College has an enrollment of some 2,400 part-time border commuter students, who generate approximately $700,000 in tuition. The loss of these students would cause the school, and other similarly-situated schools, to lose state funding based on enrollment levels, thus affecting all of the remaining students. In Detroit, it is reported that Wayne State University stands to lose approximately 500 students and $1 million in fees and tuition. Media reports show that enrollment in the University of Texas at Brownsville's English language program dropped 50% over the summer, costing the institution $150,000. In Washington State, media reports state that Bellingham Technical College stands to lose $100,000 in tuition this year. Niagara University in Lewiston, New York, reportedly stands to lose $250,000 in tuition revenue, and D'Youville College in Buffalo could lose up to $900,000 in the next year. These are only a few examples of the extent to which the practice of part-time study by commuter students is woven into life on the border.

How Does the Service Define a ''Full Course of Study'' for Border Commuter Students?

As noted, the statutory definitions of the F–1 and M–1 classifications relate to foreign students coming to the United States temporarily and solely for the purpose of pursuing a full course of study at an approved school. The Service's current regulations at 8 CFR 214.2(f)(6) and (m)(9) set forth specific requirements for defining a ''full course of study'' in various contexts.

However, the regulations at 8 CFR 214.2(f)(6)(iii) also permit a school to authorize a student to engage in a reduced course load under certain circumstances while still maintaining status as a student enrolled in a ''full course of study''. The school's designated school official (DSO) may approve a reduced course load due to initial difficulties with the English language or reading requirements, unfamiliarity with American teaching methods, or improper course level placement, or because of illness or medical reasons.

Moreover, there is another context in which the Service has authorized DSOs to approve a reduced course load in special circumstances for students who still wish to pursue a full course of study. In 1998, several Asian countries experienced a severe devaluation of their currencies, which caused a hardship upon nonimmigrant students in the United States dependent on currency from those countries for support. In response, the Service amended its regulations, 8 CFR 214.2(f)(6)(i)(F), allowing the Commissioner to publish a **Federal Register** notice authorizing affected F–1 aliens to accept employment in excess of the ordinary 20-hour per week maximum, in cases of severe economic hardship, and to drop below the usual course load in order to pursue the additional employment.

This rule adds an additional provision permitting certain border commuter students to enroll in an approved school with a lesser course load than is otherwise required for F and M students, on account of their unique educational circumstances. Specifically, for a nonimmigrant alien who meets all other requirements applicable to the F or M classification and who is commuting to a school in the United States within 75 miles of the border, the school's DSO may approve the student's attendance with a course load below that otherwise required under the general rules. However, the student must still be enrolled in a ''full course of study'' at the school, that is, a course of study that leads to the attainment of a specific educational, professional, or vocational objective, as prescribed in the introductory language in § 214.2(f)(6)(i) and (m)(9)(i), although at a reduced course load for each semester or term.

Why Is This Change Only Applicable to Border Commuters?

This reflects the special and unique relationship the United States shares with its bordering neighbors and is consistent with the numerous statutory and regulatory provisions that accommodate the special demands in regulating the flow of Canadian and Mexican nationals across our borders. For example, under section 101(a)(6) of the Act, provision is made for border crossing cards to be issued to aliens resident in foreign contiguous territory in order to facilitate the lawful crossing of our borders.

Although there is no border crossing card currently issued to Canadian nationals, the Service, together with the Department of State, has implemented procedures to issue border crossing cards to Mexican nationals consistent with the Act as amended by section 104 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Public Law 104–208, Div. C (Sept. 30, 1996) and section 601 of the Enhanced Border Security and Visa Entry Reform Act of 2002, Public Law 107–173 (May 14, 2002). Mexican nationals presenting a valid, unexpired Border Crossing Card may be admitted to the United States without other documentation for a period not to exceed 72 hours to visit within 25 miles of the border, or in the case of visits to certain areas in the State of Arizona, within 75 miles of the border. See 8 CFR 235.1(f)(1)(iii) and (f)(1)(v).

Another example, section 212(d)(4)(B) of the Act authorizes the Attorney General and the Secretary of State, on the basis of reciprocity, to waive the passport and visa requirements of nationals of foreign contiguous territory and adjacent islands.

The special relationship between the United States and its border neighbors is also reflected in the special procedures contained in the North American Free Trade Agreement (NAFTA) and codified under section 214(e) of the Act.

Administratively, the Service has regulated the special circumstances of frequent border crossers and made allowance for the peculiarities of daily life in border communities. In addition to regulatory provisions controlling the unique documentary requirements for admission of Canadian and Mexican nationals found at 8 CFR 212.1 and 212.6, the Service has established automated inspection services to provide access to the United States for a group of identified, low-risk border crossers. See 8 CFR 235.7. Other examples address circumstances surrounding temporary workers to the United States such as the regulatory provision found at 8 CFR 214.2(*l*)(12)(ii). This provision, commonly known as the ''commuter L–1,'' recognizes the exception to statutory limits on the period of stay for intracompany transferees who reside outside the United States and regularly

commute to engage in part-time employment in this country. Another special provision in the regulations for L nonimmigrants (intracompany transferees), 8 CFR 214.2(*l*)(17), allows Canadian citizens to file the employer's petition for L classification at the time of applying for admission at the port-of-entry, rather than having to obtain approval of the petition in advance from a Service Center. Also, for nearly 20 years, the Service and the Department of Labor have authorized exceptions for Canadian musicians entering under the H–2B temporary worker program. These musicians, if entering the United States to perform within 50 miles of the U.S. Canada border, are pre-certified by the Secretary of Labor.

This rule is necessary to take account of the unique educational situation of bona fide commuter students seeking to attend United States schools along the U.S./Canada and U.S./Mexico borders. The Service understands that certain border states have undertaken measures to facilitate attendance by Mexican and Canadian nationals.

The Service will restrict application of this provision to schools located within 75 miles of the U.S. border. The Service believes this 75-mile zone is consistent with the general commuter travel provisions and will accommodate the needs of students and institutions. Since 1953, Mexico and the United States have agreed to make special accommodations for Mexican nationals who cross the border into the immediate border area to promote the economic stability of the region, and the United States and Canada have a longstanding accommodation for citizens to cross the common border without requiring passports or visas. The Service therefore believes this 75-mile zone, which is the maximum distance currently allowed for Mexican nationals entering the immediate border area, pursuant to 8 CFR 235.1(f)(1)(v), is consistent with the many border accommodations established over time and will meet the needs of students and institutions. The Service does not believe a larger zone is warranted to address the problem.

Canadian or Mexican nationals enrolling at a school outside this 75-mile zone, or who maintain a residence in the United States in connection with their attendance at any approved school, will remain subject to the established rules for F or M nonimmigrants student status.

What Changes Does This Rule Make?

This rule adds new provisions in the Service's regulations at 8 CFR 214.2(f)(18) and (m)(19) to include special provisions defining a full course of study for border commuter students. To be eligible to be authorized by a school's DSO based on the border commuter student provision, the alien must be:

- A national of Canada or Mexico who maintains an actual residence and place of abode in the alien's country of nationality;
- Attending a school located within 75 miles of the border;
- Registered as a border commuter student; and
- Matriculating in a full course of study, albeit on a part-time basis.

This interim rule also adds a new provision, 8 CFR 214.2(f)(18)(iii), to place in effect the reasonable limitation that border commuter students attending an approved school on a part-time basis as F–1 students will be admitted for a fixed admission period for each semester, quarter, or term. Under current regulations, only M–1 students are admitted for a fixed period of admission, while full-time F–1 student are admitted for ''duration of status'', as provided in 8 CFR 214.2(f)(5) and (f)(7), while the student pursues a full course of study or authorized practical training. By setting a fixed period of admission for F–1 border commuter students that reflects the current semester or quarter of the school's academic calendar, the Service will be able to maintain greater control and oversight to ensure that the student does in fact remain a border commuter student. The school's DSO will be required to specify on the Form I–20 the term-by-term completion date, and a new Form I–20 will be required for each new quarter or semester that the commuter student attends at the school. Conforming amendments to paragraphs (f)(1)(i), (f)(5)(i), and (f)(7)(i) of § 214.2 further clarify that border commuter students will be admitted for a fixed period rather than for duration of status.

This rule also clarifies in § 214.2(m)(19)(iii) that the provision in § 214.2(m)(5), allowing an additional 30-day period in which to depart the United States following the completion of an M–1 student's course of study (in order to make final arrangements before departure), does not apply to border commuter students.

The Service notes that, in a separate rulemaking, 67 FR 34862 (May 16, 2002) (proposed rule), the Service is implementing section 641 of IIRIRA to establish an information collection system for nonimmigrant alien students. This system, the Student and Exchange Visitor Information System (SEVIS), will require the DSO to report when a reduced course load has been authorized for a particular student. SEVIS will enable the Service to provide more efficient oversight of this special authority for border commuter students to enroll at an approved school with a reduced course load.

Will Border Commuter Students Be Authorized for On-Campus Employment or Practical Training?

Under this rule, Canadian or Mexican nationals approved as F–1 border commuter students for a part-time course load may only be authorized to accept employment in a curricular practical training program or a post-completion optional practical training program, using existing authorization procedures. The regulatory provisions governing curricular and post-completion optional practical training are contained at 8 CFR 214.2(f)(10)(i) and(f)(10)(ii)(A)(*3*), respectively. In the case of an M–1 border commuter student, employment will only be authorized as provided for practical training as provided in existing 8 CFR 214.2(m)(14). Border commuter students admitted to pursue a course of study on a part-time basis under this rule will not be approved for any other employment in the United States (whether on-campus or off-campus) in connection with their F or M student status.

The Service believes this position is appropriate for several reasons. First, student employment (unrelated to training) often serves to help students meet living expenses while they are away from their home country and living in the United States, and that rationale does not apply to border commuter students. Also, although on-campus employment pursuant to a fellowship or scholarship would normally be available to an F–1 student, a part-time border commuter student is, by definition, not in the same situation as other F–1 students. The purpose of the F–1 and M–1 classification is completion of an educational objective, and the categories of work authorization allowed by this rule are closely related to that objective. For this reason, this rule retains the eligibility for non-resident border commuter students to engage in curricular practical training programs and post-completion optional practical training programs, but not in other types of employment in connection with their student status.

Finally, because a border commuter student admitted under this rule is maintaining his or her actual place of abode in Canada or Mexico and, by definition, would not be residing in the United States, the Service does not believe that employment in the United States is economically necessary. The

alien would be able, of course, to find employment in his or her own country where the student continues to reside.

A border commuter student who wishes to engage in employment in the United States that is not authorized by this rule must obtain the appropriate visa, or enroll as a full-time F–1 or M–1 student, in which case the student will not be governed by the limitations of this rule.

Does This Rule Affect Canadian or Mexican Nationals Who Are Authorized To Enter and Work in the U.S. Under the Provisions of NAFTA?

This rule simply provides a means for certain Canadian and Mexican nationals who commute into the U.S. to attend school on a part-time basis to be able to obtain proper status as an F–1 or M–1 nonimmigrant.

The United States Government's obligations under NAFTA do not address students and this rule in no way affects the rights of Canadian or Mexican nationals to temporary entry and employment in the U.S. under NAFTA. Canadian or Mexican nationals are admitted as TN nonimmigrants, or in some cases in a different work-related nonimmigrant classification under NAFTA depending on their circumstances. If a Canadian or Mexican national has been already admitted to the United States in a work-related nonimmigrant classification pursuant to NAFTA, it is permissible for them to attend school incidental to their NAFTA-based classification, and that is not affected by this interim rule.

Does This Rule Affect Canadian or Mexican Nationals Attending School on a Full-Time Basis?

No. Canadian or Mexican nationals attending school in the United States on a full-time basis continue to be governed by the rules that apply to their respective classifications. A Canadian or Mexican national admitted to attend school in the United States on a full-time basis as an F–1 or M–1 student may seek authorization from a DSO for a reduced course load, but must comply with the aspects of this rule requiring residence in Canada or Mexico, or otherwise qualify for reduced course load under 8 CFR 214.2(f)(6)(iii).

Will Canadian or Mexican Nationals Be Eligible for Nonimmigrant Student Status To Attend Public Elementary or Secondary Schools or Publicly-Funded Adult Education Programs?

Section 214(m) of the Act prohibits an F–1 student from attending a public high school for more than 12 months in the aggregate. Because of the statutory limitation, an F–1 student at a public high school can only be admitted for an aggregate of 12 months of study. Section 214(m) also requires that the alien, prior to being issued the F–1 visa, demonstrate that he or she has reimbursed the local school district for the full, unsubsidized per capita cost of providing the high school education for the period of the alien's attendance.

Also, under section 214(m) of the Act, as amended by sections 625 and 107(e)(2) of IIRIRA, a nonimmigrant may not be accorded status as an F–1 student to pursue a course of study at a public elementary school or a publicly funded adult education program.

Does This Rule Affect Any Other Processes and Procedures Applicable to the F and M Classifications?

No. Except for the change this rule makes regarding enrollment in a full course of study for border commuter students, all other requirements, processes, and procedures remain in effect. For example, a border commuter student may transfer between qualifying institutions within the 75-mile limit under the same rules as any other F–1 student. Such a student would also be able to transfer to a school outside the 75-mile limit, under the established procedures, but the student would not be eligible, at the new school, for the special part-time provision created by this rule. Similarly, a Canadian or Mexican national who is currently a full-time student may transfer to a qualifying school as a border commuter student provided that he or she meets the requirements of this rule.

Good Cause Exception

The Service's implementation of this rule as an interim rule is based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). The reason and necessity for the immediate promulgation of this rule are as follows:

Adherence to the notice and comment period normally required under 5 U.S.C. 553(b) by promulgation of a proposed rule prior to an interim rule would cause a disruption in studies. As noted in the supplementary information to this rule, the emphasis on the proper classification for the activity affected by this rule has led to increased enforcement and has had the effect of ceasing studies by affected students. In order to allow those students to recommence studies in a proper and regulated format in time for the upcoming fall academic term, an interim rule is necessary.

Furthermore, this rule enhances security and reduces risk because it places the activity it governs in a regulated context. As noted in this rule, the activity sanctioned by this rule has taken place on the border for some time, but has taken place in a classification, such as the B nonimmigrant classification, that is not appropriate. Thus, to avoid disruption it is necessary that this rule be designated an interim rule.

Therefore, the Service finds that it would be impractical and contrary to the public interest to adopt this rule with the prior notice and comment period normally required under 5 U.S.C. 553(b).

This rule is also made effective upon publication in the **Federal Register.** This action is necessary in order to avoid the disruption in the enrollment of border community students in the upcoming academic term, as discussed above. It will also facilitate the use of this provision by the affected communities as soon as possible after publication. Because this rule removes a restriction and imposes no new burdens or requirements on the public, the Service is not required to delay the effective date of this rule for 30 days under 5 U.S.C. 553(d), and concludes that it would be contrary to the public interest to do so.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule allows border community students to enroll part-time in United States schools who accept them for admission. Although some of these border-area schools may be considered as small entities as that term is defined in 5 U.S.C. 601(6), the effect of this rule would be to benefit those schools by allowing them to continue to enroll certain part-time students who commute into the United States to attend school.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget (OMB) for review.

Executive Order 13132

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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB) for review and approval any reporting requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

List of Subjects in 8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Reporting and recordkeeping requirements, Students.

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1101 note, 1103, 1182, 1184, 1187, 1221, 1281, 1282; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 8 CFR part 2.

2. Section 214.2 is amended by:

a. Removing the term ''for duration of status'' in paragraph (f)(1)(i) introductory text;

b. Adding a new sentence at the beginning of paragraph (f)(5)(i);

c. Removing the first sentence and revising the current second sentence in paragraph (f)(7)(i);

d. Adding and reserving a new paragraph (f)(17);

e. Adding a new paragraph (f)(18);

f. Adding and reserving new paragraph (m)(18); and by

g. Adding a new paragraph (m)(19).

The revision and additions read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) * * *

* * * * *

(5) * * *

(i) * * * Except for border commuter students who are covered by the provisions of paragraph (f)(18) of this section, an F–1 student is admitted for duration of status. * * *

* * * * *

(7) * * *

(i) * * * An F–1 student who is admitted for duration of status is not required to apply for extension of stay as long as the student is maintaining status and making normal progress toward completion of his or her educational objective. * * *

* * * * *

(17) Reserved.

(18) *Special rules for certain border commuter students.*

(i) *Applicability.* For purposes of the special rules in this paragraph (f)(18), the term ''border commuter student'' means a national of Canada or Mexico who is admitted to the United States as an F–1 nonimmigrant student to enroll in a full course of study, albeit on a part-time basis, in an approved school located within 75 miles of a United States land border. A border commuter student must maintain actual residence and place of abode in the student's country of nationality, and seek admission to the United States at a land border port-of-entry. These special rules do not apply to a national of Canada or Mexico who is:

(A) Residing in the United States while attending an approved school as an F–1 student, or

(B) Enrolled in a full course of study as defined in paragraph (f)(6) of this section.

(ii) *Full course of study.* The border commuter student must be enrolled in a full course of study at the school that leads to the attainment of a specific educational or professional objective, albeit on a part-time basis. A designated school official at the school may authorize an eligible border commuter student to enroll in a course load below that otherwise required for a full course of study under paragraph (f)(6) of this section, provided that the reduced course load is consistent with the border commuter student's approved course of study.

(iii) *Period of admission.* An F–1 nonimmigrant student who is admitted as a border commuter student under this paragraph (f)(18) will be admitted until a date certain. The DSO is required to specify a completion date on the Form I–20 that reflects the actual semester or term dates for the commuter student's current term of study. A new Form I–20 will be required for each new semester or term that the border commuter student attends at the school. The provisions of paragraphs (f)(5) and (f)(7) of this section, relating to duration of status and extension of stay, are not applicable to a border commuter student.

(iv) *Employment.* A border commuter student may not be authorized to accept any employment in connection with his or her F–1 student status, except for curricular practical training as provided in paragraph (f)(10)(i) of this section or post-completion optional practical training as provided in paragraph (f)(10)(ii)(A)(*3*) of this section.

* * * * *

(m) * * *

(18) Reserved.

(19) *Special rules for certain border commuter students.*

(i) *Applicability.* For purposes of the special rules in this paragraph (m)(19), the term ''border commuter student'' means a national of Canada or Mexico who is admitted to the United States as an M–1 student to enroll in a full course of study, albeit on a part-time basis, in an approved school located within 75 miles of a United States land border. The border commuter student must maintain actual residence and place of

abode in the student's country of nationality, and seek admission to the United States at a land border port-of-entry. These special rules do not apply to a national of Canada or Mexico who is:

(A) Residing in the United States while attending an approved school as an M–1 student, or

(B) Enrolled in a full course of study as defined in paragraph (m)(9) of this section.

(ii) *Full course of study.* The border commuter student must be enrolled in a full course of study at the school that leads to the attainment of a specific educational or vocational objective, albeit on a part-time basis. A designated school official at the school may authorize an eligible border commuter student to enroll in a course load below that otherwise required for a full course of study under paragraph (m)(9) of this section, provided that the reduced course load is consistent with the border commuter student's approved course of study.

(iii) *Period of stay.* An M–1 border commuter student is not entitled to an additional 30-day period of stay otherwise available under paragraph (m)(5) of this section.

(iv) *Employment.* A border commuter student may not be authorized to accept any employment in connection with his or her M–1 student status, except for practical training as provided in paragraph (m)(14) of this section.

* * * * *

Dated: August 22, 2002.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 02–21823 Filed 8–26–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, and 135

[Docket Nos. 26930 & 27459]

RIN 2120–AE70 & 2120–AF09

Aircraft Ground Deicing and Anti-Icing Program & Training and Checking in Ground Icing Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, confirmation of effective date, and disposition of comments.

SUMMARY: On September 29, 1992, and December 30, 1993, the FAA published interim final rules requiring deicing operations in ground icing conditions. The interim final rules require part 121 certificate holders to develop and comply with an FAA approved ground deicing/anti-icing program; part 125 certificate holders to provide pilot testing on conducting operations in ground icing conditions; part 135 certificate holders to provide pilot training on conducting operations in ground icing conditions; and part 125 and 135 certificate holders to check airplanes for contamination (*i.e.*, frost, ice, or snow) prior to takeoff when ground icing conditions exist. These rules were necessary to provide an added level of safety to flight operations during adverse weather conditions. The FAA invited comments on the interim final rules. This document responds to public comments and confirms the interim final rules as final rules. This action is part of our effort to address recommendations of the Government Accounting Office and the Management Advisory Council by reducing the number of aged items in the Regulatory Agenda.

EFFECTIVE DATE: This action makes final the interim final rules and confirms the original effective dates. The interim final rule on Aircraft Ground Deicing and Anti-Icing Program published at 57 FR 44924 is effective November 1, 1992. The interim final rule on Training and Checking in Ground Icing Conditions published at 58 FR 69620 is effective January 31, 1994.

ADDRESSES: The complete docket for the interim final rules on deicing may be examined at the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–200), Room 915–G, Docket Nos. 26930 & 27459, 800 Independence Ave., SW., Washington, DC 20591, weekdays (except federal holidays) between 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Daniel Meier, Air Carrier Operations Branch, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone 202–267–3749.

SUPPLEMENTARY INFORMATION:

Background

On July 23, 1992, the FAA published a Notice of Proposed Rulemaking (57 FR 32846) that would establish requirements for part 121 certificate holders to develop and comply with an FAA approved ground deicing/anti-icing program. The proposed rule was developed in response to a number of airplane accidents caused in part by icing and to recommendations from an international conference on aircraft deicing/anti-icing. Because of the urgency of the rulemaking, the FAA allowed for only a 15-day comment period.

On September 21, 1993, the FAA published proposed requirements for ground deicing procedures for parts 125 and 135 certificate holders (58 FR 49164). Under the proposal when ground icing conditions exist, parts 125 and 135 certificate holders would be required to check their airplanes for contamination prior to beginning takeoff. In addition, under the proposed changes to part 125, certificate holders would be required to provide pilot testing on ground deicing/anti-icing procedures, and under proposed changes to part 135, certificate holders would be required to provide pilot training on ground deicing/anti-icing procedures. The FAA proposed the requirements in response to part 135 accidents that were caused by pilots beginning takeoff with contamination adhering to critical airplane surfaces.

On September 29, 1992, the FAA published the part 121 interim rule (57 FR 44924) and on December 30, 1993, the FAA published the part 135 interim rule (58 FR 69620). The FAA requested comments on the interim final rules because the comment periods on the NPRMs were unusually short, and because the FAA anticipated that the first winter of implementation of the rules might provide additional information supporting either the continuation or modification of the rules. This action is in response to those comments and confirms the interim final rules as final rules.

Discussion of Comments

General

The FAA received 22 comments on the part 121 interim rule. Generally, most commenters favor the FAA's action. Several commenters address specific requirements in the part 121 interim rule and some recommend changes in the rule language.

The most significant issues addressed by commenters on the part 121 interim rule involve holdover times, pretakeoff checks, hard-wing aircraft, and the role of aircraft dispatchers. Additional issues addressed by commenters involve applicability, training, research, type of fluid, alternate procedures, need for an approved program, and air traffic control.

The FAA received only one comment on the part 135 interim rule. This commenter made specific recommendations to delete paragraphs from parts 125 and 135 that the

commenter claims are inconsistent with the ''Clean Aircraft concept.''

Icing Conditions

The only comment on the part 135 interim rule states that paragraph (a)(1) of both §§ 125.221 and 135.227, which permits takeoffs when there is frost adhering to the wings, or stabilizing or controlling surfaces, if the frost has been polished to make it smooth, is inconsistent with the Clean Aircraft concept. The commenter states that if this paragraph is included in the final rule it will allow the same type large turbine aircraft to be operated with less safety under parts 125 or 135 than under part 121.

FAA Response: While the FAA has no record of an unsafe operational history with aircraft operated under the current icing regulations of 14 CFR parts 125 and 135, we believe there may be validity to this comment and we may address the clean aircraft concept in a future agency action.

Holdover Times

The part 121 interim rule requires that a certificate holder's ground deicing/anti-icing program must include the certificate holder's holdover timetables and the procedures for the use of these tables by the certificate holder's personnel. The rule requires that takeoff after exceeding any determined holdover time is permitted only after (1) A pretakeoff contamination check determines that the wings, control surfaces, and other critical surfaces, as defined in the certificate holder's program, are free of frost, ice, or snow; or (2) it is otherwise determined by an approved alternative procedure that the wings, control surfaces, and other critical surfaces, as defined in the certificate holder's program, are free of frost, ice, or snow; or (3) the critical surfaces are redeiced and a new holdover time is determined.

Four commenters (Swissair, ALPA, Association of European Airlines (AEA), and an airline pilot) express concern with the reliability and use of holdover times. Swissair states it has always considered the holdover times as guideline and does not support the use of holdover time guidelines as the only criteria for a go/no-go decision. ALPA expresses a similar opinion. Three commenters (Canadair, ALPA, and an airline pilot) are concerned that with the wide range of holdover times pilots may mistakenly believe that a takeoff is safe, regardless of other factors, so long as it is made within the longer time limit. Swissair states that the range of holdover times cannot be considered ''as a minimum/maximum value but rather more correctly as two maximums, depending on actual weather conditions.'' Canadair states that it is not clear whether a ''certificate holder's program is expected to quote a single holdover time for a specific situation or a range * * *'' and that if a range is intended, the FAA needs to clarify the significance of the minimum time.

FAA Response: The FAA agrees with the commenters that a holdover time should not be used as the sole criteria for a go/no-go decision before the expiration of the holdover time. The FAA stated this in the preamble to the interim final rule and in paragraph 8c of Advisory Circular 120–60, Ground Deicing and Anti-Icing Program. In the part 121 interim rule the FAA cautioned that the holdover timetables are for use in departure planning only and shall be used in conjunction with pretakeoff check procedures. These tables provide only approximate time ranges. Each pilot-in-command (PIC) determines the appropriate holdover time for the type of fluid and the actual weather conditions. The fact that a determined holdover time has not yet expired would not alone justify a decision to take off if other conditions, such as the rate or type of precipitation, had worsened, or if the PIC has other information, such as expected delays, to warrant redeicing or re-inspecting the aircraft. Conversely, the final rule does not prohibit takeoff after a holdover time has expired, if certain additional actions are taken, *e.g.*, a pretakeoff contamination check or an alternative check that indicates the aircraft is free of contamination.

The FAA agrees that the stated range in holdover times should not be used as a minimum and maximum value. The advisory circular specifically states that generally the maximum time within the holdover time range applies in light precipitation conditions and the minimum time applies to moderate to heavy precipitation conditions. In each case the holdover time is determined from within the stated range depending on the actual weather conditions. The FAA, therefore, has determined that the advisory circular provides sufficient guidance to pilots concerning holdover time; therefore, no further changes are required.

Aircraft Checks

If the determined holdover time has been exceeded, the part 121 interim final rule requires, as one alternative, a pretakeoff contamination check (§ 121.629(c)(3)(i)). A pretakeoff contamination check, as defined in § 121.629(c)(4), is a check to make sure the wings, control surfaces, and other critical surfaces, as determined in the certificate holders' program, are free of frost, ice, and snow. It must be accomplished from outside the aircraft unless the approved program specifies otherwise, and it must be completed within five minutes before takeoff.

A pretakeoff check is defined in § 121.629(c)(4) as a check of the aircraft's wings or representative aircraft surfaces for frost, ice, or snow within the holdover time. As stated in the preamble to the part 121 interim rule and to be consistent with the intended use of holdover timetables, certificate holders must accomplish a pretakeoff check whenever holdover timetables are used. Language has been added to § 121.629(c)(3) to make it clear that a pretakeoff check is integral to the use of holdover timetables.

The part 121 interim rule under § 121.629(d) also allows a certificate holder to continue to operate without a deicing program if the aircraft is checked to ensure that the wings, control surfaces, and other critical surfaces are free of frost, ice, and snow anytime conditions are such that frost, ice, or snow may reasonably be expected to adhere to the aircraft. The check must be completed within five minutes before takeoff and accomplished from outside the aircraft. This check is referred to as the ''paragraph (d) outside-the-aircraft check.'' As stated in the preamble to the part 121 interim rule, accomplishing this check may not be a viable option at certain airports, at certain peak departure times, and during certain weather conditions.

Twelve commenters (ALPA, NTSB, ATA, Fokker, Canadair, de Havilland, an airline pilot, AEA, Federal Express, Swissair, Association of Flight Attendants, and Aviatrends) address the issue of aircraft checks. The three sub-issues these commenters address are: (1) The adequacy of any check made from within the aircraft; (2) how the five minutes is measured; and (3) other aircraft check issues.

(1) *Checks made from within the airplane.* The NTSB, ALPA, de Havilland, Association Flight Attendants, Aviatrends, and an airline pilot all voice concern for the reliability of any check made from within the airplane. The NTSB expressed particular concern for visual observations involving swept-wing airplanes without leading edge devices. Aviatrends cited specific examples in which reports filed under NASA's Aviation Safety Reporting System indicated problems with checks from inside the aircraft. In one case where both Type I and Type II fluid had been

applied, the first officer reported that it was impossible to see through Type II fluid on the cabin windows. A second report concluded that ''the value of inspecting the wing for ice from inside the cabin, especially at night, is questionable'' and the ''Type II deicing fluid is the consistency of warm honey and when it covers the cabin windows very little can be seen through them.'' ALPA expressed similar concerns and concluded that ''the inspection from inside the aircraft is therefore turned into a presumption.''

FAA Response: Pretakeoff contamination checks, defined under § 121.629(c)(4) and required under § 121.629(c)(3)(i), must be accomplished from outside the aircraft unless the certificate holder's approved program specifies otherwise. Checks performed from inside the aircraft are not permitted unless the certificate holder has clearly defined and demonstrated procedures to allow the flight crew to assess the condition of the aircraft from inside the aircraft under various conditions (*e.g.*, lighting, weather, visibility, *etc.*). The certificate holder's program should emphasize that if any doubt exists as to the condition of the aircraft after conducting this check, takeoff must not be attempted. In addition, as stated in the preamble to the part 121 interim rule, the ultimate authority and responsibility for the operation of the aircraft remain with the PIC. Therefore, whenever the PIC is not fully satisfied with the reliability of a check conducted from inside the aircraft, the PIC is expected to get the aircraft redeiced or request that an additional check be conducted from outside the aircraft.

(2) *How the 5 minutes is measured.* Several commenters (Swissair, ATA, Fokker, and AEA) question the intent of the rule language that requires that the pretakeoff contamination check must ''be conducted'' and the paragraph (d) check must ''occur'' within five minutes prior to beginning takeoff. These commenters point out that if this check can take five to fifteen minutes to accomplish, as the FAA stated in the preamble to the part 121 interim rule, the rule would be impractical unless it is interpreted to mean that the takeoff must occur within five minutes of completion of the check. While seeking clarification of the five-minute time requirement, AEA states that a measurement of five minutes after completing the checks would be problematic and could be dangerous unless there is a differentiation based on the type of fluid used.

FAA Response: The FAA's intent was that the pretakeoff contamination check and the paragraph (d) outside-the-aircraft check must be completed within five minutes prior to beginning takeoff. The FAA believes that a pretakeoff contamination check or a paragraph (d) outside-the-aircraft check completed within no more than five minutes prior to beginning takeoff is sufficiently close to takeoff, in most weather conditions, to ensure absence of contamination. Five minutes is a maximum time. The FAA expects PICs to use good judgment when weather conditions might dictate a shorter time.

(3) *Other pretakeoff check issues.* Canadair states that there is still a possibility of confusion between the two similarly worded terms ''pretakeoff check'' and ''pretakeoff contamination check'' and recommends that the latter be renamed ''external contamination check.'' AEA states its concern that since holdover times are only guidelines, they should not be used as ''criteria to establish whether a more thorough check (pretakeoff contamination check) is required.''

FAA Response: The FAA believes that the aviation industry has become familiar with the distinction between the two checks. As stated under item (1) above, a holdover time is never the sole criteria in determining whether a takeoff should be attempted or whether another check is warranted. The PIC's evaluation of all the relevant factors and his or her exercise of good judgment are expected.

Hard Wing Aircraft

The part 121 interim rule does not contain any specific additional requirements for hard wing aircraft (*i.e.* aircraft without wing leading edge devices). The NPRM preamble stated that the FAA has issued Airworthiness Directives (AD) requiring a tactile check of specific hard wing aircraft in ground icing conditions. The FAA stated in the preamble to the part 121 interim rule that it would continue to deal with aircraft specific requirements by using ADs.

Five commenters (NTSB, Fokker, de Havilland, the Air Transport Association, and Embraer) comment on the issue of ground deicing as it affects aircraft commonly referred to as hard wing aircraft. The NTSB believes that special operational procedures are justified for hard wing aircraft. Conversely, the other four commenters state that the FAA does not have any valid basis for imposing additional requirements (*e.g.* a tactile check) on hard wing aircraft with aft-mounted engines. Of these commenters, only Fokker offers specific evidence to support its position. Primarily, Fokker disputes the NASA report that served as a partial basis for the FAA's conclusions concerning hard wing aircraft. Fokker maintains that the NASA report is inaccurate and that data produced in subsequent tests conducted by NASA and earlier tests conducted in Sweden do not support the need for applying any additional procedures to hard wing aircraft.

FAA Response: The part 121 interim rule imposed no special requirements for hard wing aircraft; however, the FAA has issued AD 92–03–01 and AD 92–03–02, which require special procedures for certain model DC–9 and MD–80 airplanes. These special procedures are based on the fact that these airplanes have a wing design that is particularly susceptible to loss of lift due to wing icing. Minute amounts of ice or other contaminates on the leading edge of these hard wings can cause an increase in stall speed of up to 30 knots. This increased stall speed may be well above the stall warning activation speed. Because of this phenomena, special guidance applicable to hard wing aircraft have been included in Advisory Circular (AC) 120–60.

Roles of Dispatcher and Pilot-in-Command (PIC)

The part 121 interim rule addresses the duties and responsibilities of the PIC and the aircraft dispatcher in determining whether a takeoff can be safely accomplished (§ 121.629(b) and (c)).

Three commenters address the proper roles of PICs and aircraft dispatchers. Swissair agrees with the FAA that the ultimate responsibility for determining if the aircraft is airworthy is with the PIC once the aircraft is released from ground personnel. Two commenters, both aircraft dispatchers, believe that § 121.629, as amended in the part 121 interim rule, does not give proper recognition to what they believe are joint responsibilities of aircraft dispatcher and pilot-in-command as reflected in §§ 1221.395, 121.533, 121.593, 121.599(a), 121.601(a), 121.605, and 121.627(a). Both commenters state that the cited sections indicate a joint responsibility between the aircraft dispatcher and the PIC for the safety of a flight and that the dispatcher's responsibility does not end with the release of the aircraft by the dispatcher. Rather, the dispatcher continues to be involved in the operational control of the aircraft throughout the flight. One of these commenters recommends that § 121.629 should be revised to specifically state that the aircraft dispatcher is involved with the PIC in the operational control

of the aircraft and that this control includes dispatcher concurrence in computing or revising a holdover time and dispatcher initiation of an exterior tactile contamination check.

FAA Response: The FAA agrees that operational control of the aircraft is a joint responsibility between the PIC and the aircraft dispatcher. As stated in the preamble to the part 121 interim rule, a certificate holder's program may include holdover time coordination with the aircraft dispatcher; however, the real-time information required to determine or update the proper holdover time may be available only to the PIC. In this situation the PIC safety responsibility may require him or her to determine a holdover time without coordinating with the dispatcher. The FAA believes that the part 121 interim rule language does not diminish, and is consistent with, the traditional role of the aircraft dispatcher as stated in the sections cited above and therefore no change is made in the part 121 interim rule language.

Applicability

The part 121 interim rule applied to part 121 certificate holders only; however, the preamble for the interim final rule stated that the FAA would continue to study part 125 and 135 operations to determine if future rulemaking is required. Three comments address applicability. The NTSB reiterates its concern that the interim rule does not address part 125 and part 135 certificate holders. Empire Airlines states that, based on its experience as an operator under both parts 121 and 135, it believes a part 121-type program should not be imposed on part 135 operators. Canadair states that part 91 aircraft should also be included in any further study.

FAA Response: The FAA issued an interim final rule tailored to part 125 and 135 operators on December 30, 1993 (58 FR 69620). Presently, the FAA plans no part 91 rulemaking; however, guidance for part 91 operators on ground deicing/anti-icing practices and procedures is available in AC 120–58, Pilot Guide for Large Aircraft Ground Deicing, and AC 135–17, Pilot Guide for Small Aircraft Ground Deicing.

Training

The part 121 interim rule requires initial and recurrent ground training and testing for flight crewmembers and qualification for all other affected personnel. The training, testing, and qualifications must cover the use of holdover times, aircraft deicing/anti-icing procedures, contamination, types and characteristics of deicing/anti-icing fluids, cold weather preflight inspection procedures, and techniques for recognizing contamination.

Four commenters (NTSB, Fokker, Trans World Express and Finnair) address the issue of training. The NTSB states that the required recurrent training for flight crewmembers and involved ground personnel is ''equally applicable to the FAA personnel involved in overseeing the airline programs.'' Fokker believes that flight crew training is most important in preventing ground icing accidents and recommends that the ''FAA should emphasize training in the use of rotation techniques suited to conditions where ground icing can be anticipated.'' Trans World Express states that vendors (*e.g.* contract personnel who may work for several certificate holders) are required to receive the generic training over and over when the vendors really need it only once and recommends that the certificate holder be permitted to accept another certificate holder's qualification program for vendors as it pertains to deicing/anti-icing fluid application and dispersal. Finnair states that training is the most important short-term safety measure and should emphasize the overall picture of the conditions affecting the aircraft and not concentrate on any one item such as holdover timetables.

FAA Response: The FAA agrees with the NTSB regarding the need for FAA inspector ground deicing/anti-icing training. This training was provided to all Principal Aviation Safety Inspectors (Operations and Maintenance) before the part 121 interim rule was published.

The FAA agrees with Finnair and Fokker regarding their comments on training except to the extent that Fokker believes that pilots should be trained to use a different aircraft rotation technique during takeoff that, in its view, is more suited to conditions where ground icing can be anticipated. Training pilots in the proposed techniques, however, undermines the ''clean aircraft'' concept since the premise for using such techniques is that the PIC may be unsure of whether the aircraft is free of contamination. If contamination is adhering to critical surfaces of the aircraft, the takeoff would not comply with § 121.629(a), and the techniques recommended by Fokker are not a safe alternative to that compliance.

Conceptually, the FAA agrees with Trans World Express that redundant training is neither necessary nor useful for the trainee. On the other hand, the FAA cannot permit a certificate holder to use another certificate holder's or a vendor's deicing/anti-icing procedures unless those procedures have been approved by the principal inspectors of the certificate holder that wishes to use them.

Research

In the part 121 interim rule preamble, the FAA stated that further research is needed on issues such as the effects of airplane design on wing contamination and how this would affect pilot flying techniques. The preamble states that additional study is needed to assess the value of aircraft type specific pilot training for use in ground icing conditions. The NTSB and the Federal Express Corporation state support for further research of the type the FAA indicated in the part 121 interim rule preamble. Federal Express states support for further research on the use of holdover times and on the effects of airplane design and their interaction with contaminants, particularly for hard wing aircraft. The NTSB states that the highest research priority should be given to determining the possible contaminating effects of Type II fluids on runway friction. The NTSB also strongly supports continuing initiatives for the development of technical solutions to wing contaminant detection.

FAA Response: Within the past few years research has been initiated on several different areas related to the ground deicing problem. The FAA has published a report which describes ongoing research, entitled ''Aircraft Ice Detectors and Related Technologies for Onground and Inflight Application.'' It is available to the public through the National Technical Information Service, Springfield, VA 22161. The FAA is continuing to analyze holdover times in an effort to make them a more precise tool for determining an aircraft's contamination status. The FAA and the United States Air Force are cooperating with NASA Ames Research Center in the development of a new more environmentally friendly deicing/anti-icing fluid. Many different corporations and individual entrepreneurs are developing detection systems that might be used to detect contamination on an aircraft's critical surfaces. The FAA's Technical Center has completed initial studies that indicate Type II fluids do not have a significant effect on runway friction.

Types of Fluids

The part 121 interim rule does not require using any specific deicing/anti-icing fluid. The ground deicing AC 120–60 gives guidance in the use of deicing/anti-icing fluids, stating the advantages and disadvantages of Type I and Type II fluids. Two commenters (Fokker and

Technoshield) address the question of Type II fluids. Fokker states that the FAA Advisory Circular incorrectly suggests that there may be disadvantages to Type II fluids with respect to decreasing the runway coefficient of friction. Technoshield suggests that the entire rulemaking will have the effect of precluding the use of Type I fluids.

FAA Response: As stated in the preamble to the part 121 interim rule, each type fluid has its benefits and intended usage. Each certificate holder, not the FAA, determines the type(s) of fluid to be used in its operations. Recent studies by the FAA indicate that no degradation of runway frictions greater than that occurring with water covered runway surfaces occurs with the use of Type II fluids.

The FAA does not believe that the rule affects the choice of fluid. Weather conditions and certificate holder practice will continue to determine the choice of fluid.

Alternative Procedures

Canadair suggests that it would be useful if the FAA issues advisory material on how to design, develop, and verify an alternative procedure for determination that critical surfaces are free of frost, ice, or snow, as is authorized under § 121.629(c)(3)(ii).

FAA Response: As was stated in the preamble to the part 121 NPRM, the ''otherwise determined by an alternative procedure'' language was included to cover changes in ambient conditions or industry development of approved new technologies. The FAA believes that certificate holders should take the initiative to develop such alternative procedures and submit them to the FAA for approval.

Need for Approved Program

ALPA states its belief that each carrier operating under part 121 should have an approved program and that, for the reasons stated in its earlier comments on the ground deicing NPRM, § 121.629(d) should be deleted.

FAA Response: The FAA believes that the only certificate holders under part 121 who do not have an approved ground deicing/anti-icing program are those who conclude it would be more cost effective to operate without such a program. These certificate holders might have to delay or cancel flights in icing conditions because the outside-the-aircraft check required under § 121.629(d) is not a viable option during certain weather conditions and at certain airports. If a certificate holder is able to conduct an outside-the-aircraft check and that check ensures that the aircraft is free of contamination, the FAA believes the check is an adequate substitute for an approved program.

Air Traffic Control

The NTSB referenced several of its previous recommendations that are not directly related to this rulemaking action but that are related to achieving more efficient planning for ground operations. The recommendations, if implemented, would reduce the probability that airplanes will exceed their deicing holdover times.

FAA Response: The FAA has undertaken a number of related actions, including, as part of certain airports' ground deicing plans, gate hold procedures (NTSB Recommendation A–93–19) and procedures that limit the time an aircraft spends on the ground after deicing (NTSB Recommendation A–93–20). These procedures have contributed to both improved safety during ground icing conditions and enhanced the overall departure and arrival rates during these conditions.

Environmental Analysis

These rules are federal actions that are subject to the National Environmental Police Act (NEPA). Under applicable guidelines of the President's Council on Environmental Quality and agency procedures implementing NEPA, the FAA normally prepares an environmental assessment (EA) to determine the need for an environmental impact statement (EIS) or whether a finding of no significant impact (FONSI) would be appropriate. (40 CFR 1501.3; FAA Order 1050.1D appendix 7. par. 3(a)). In the NPRMs the FAA invited comments on any environmental issues associated with the proposed rule, and specifically requested comments on the following: (1) Whether the proposed rule will increase the use of deicing fluids, (2) whether the proposed part 121 rule will encourage the use of Type II deicing fluid, (3) the impact, if any, of using these deicing fluids on taxiways ''just prior to takeoff,'' and (4) containment methods currently used that can be adapted to other locations on an airport. Only a few commenters to the part 121 NPRM addressed these environmental issues and most of these commenters focused more on the effect of Federal, state, and local environmental requirements and the lack of local facilities, than on the questions of the potential environmental impact of deicing fluids. A summary of the comments received, the FAA's response, and the findings of the FAA's Environmental Assessment appear in the preamble to the part 121 interim rule.

The Environmental Assessment (EA) which supported a Finding of No Significant Impact (FONSI) is included in the docket for this rulemaking. Except for the NTSB suggestion that the FAA conduct further research on runway contaminants, no further comments on environmental issues associated with this rulemaking were received following publication of the part 121 and part 135 interim rules. Nonetheless, as part of its long term efforts, the FAA will continue to work with certificate holders and with airport operators to monitor the actual and potential environmental effects of this rule and will take appropriate steps as necessary.

Conclusion

After consideration of the comments submitted in response to the interim final rules, the FAA has determined that no further rulemaking action is necessary. The interim final rule amending part 121 of title 14 of the Code of Federal Regulations, Amendment No. 121–231, entitled Aircraft Ground Deicing and Anti-Icing Program, published at 57 FR 44924 on September 29, 1992, is adopted as a final rule. The interim final rule amending parts 125 and 135 of title 14 of the Code of Federal Regulations, Amendment Nos. 125–18 and 135–46, entitled Training and Checking in Ground Icing Conditions, published at 58 FR 69620 on December 30, 1993, is adopted as a final rule.

Issued in Washington, DC, on August 19, 2002.

Monte R. Belger,

Acting Administrator.

[FR Doc. 02–21575 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of the Census

15 CFR Part 50

[Docket Number 020509117–2195–02]

RIN 0607–AA36

Bureau of the Census Certification Process

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of the Census (Census Bureau) is issuing this final rule to establish the process for requesting certification of Census Bureau

documents (*i.e.*, tables, maps, reports, etc.) and the pricing structure for that service. A certification confirms that a product is a true and accurate copy of a Census Bureau document. The Census Bureau is issuing this final rule to create a centralized system for certifying Census Bureau documents and to accurately reflect the true costs associated with certification.

EFFECTIVE DATE: This rule is effective on September 26, 2002.

FOR FURTHER INFORMATION CONTACT: Requests for additional information on this rule should be directed to Les Solomon, Chief, Customer Services Center, Marketing Services Office, U.S. Census Bureau, Room 1585, Federal Building 3, Washington, DC 20233, (301) 763–5377 or by fax (301) 457–4714.

SUPPLEMENTARY INFORMATION:

Background

The Census Bureau has developed standard procedures and pricing policies regarding the certification process.

Over the years, the volume of requests for certified Census Bureau documents has steadily increased. Title 13, Section 8, allows the Census Bureau to provide certain statistical materials upon payment of costs for this service. With the release of Census 2000 data, the volume of requests for certified documents is expected to continue increasing. The price structure includes a preset service fee plus the cost of the resources used in fulfilling the requests, according to the kind of certification requested and its level of difficulty (easy, moderate, or difficult). The two types of certification available are (1) ''Impression,'' that is, impressing the Census Bureau seal on a document and (2) ''Attestation,'' a signed statement by Census Bureau officials, attesting to the authenticity, accompanying a document onto which the Census Bureau seal has been impressed.

A certification may be needed for many reasons. For example, parties in a legal proceeding may wish to obtain a copy of a Census Bureau table or map that they wish to introduce into evidence.

In order to create consistent certification rules, the Census Bureau is making the following amendment to Title 15, Code of Federal Regulations (CFR), part 50:

- Add new Section 50.50 containing the Census Bureau's certification process.
- Establish a consistent pricing structure.
- Require requests for certifications to contain information on Form BC–1868(EF), Request for Official Certification. (See the Census Bureau's Web site, <*http://www.census.gov/mso/www/certification/*>.)

On June 4, 2002, the Census Bureau published in the **Federal Register** a notice of proposed rulemaking and request for comments on this program (67 FR 38445). The Census Bureau received no comments on the proposed rule.

Administrative Procedure and Regulatory Flexibility Act

A notice of final rulemaking is not required by Title 5, United States Code (U.S.C.), section 553, or any other law, because this rule is procedural in nature and involves a matter relating to public property, loans, grants, benefits, or contracts. Accordingly, it is exempt from the notice and comment provisions of the Administrative Procedure Act under 5 U.S.C. 553(a)(2) and 5 U.S.C.(b)(A). Therefore, the analytical requirements of the Regulatory Flexibility Act are not applicable (5 U.S.C. 601, *et seq.*). As a result, a Regulatory Flexibility Analysis is not required and none has been prepared.

Executive Orders

This rule has been determined not to be significant for purposes of Executive Order 12866. This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a 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), Title 44, U.S.C., Chapter 35, unless that collection of information displays a current Office of Management and Budget control number. This notice does not represent a collection of information and is not subject to the PRA's requirements. The form referenced in the rule, Form BC–1868(EF), collects only information necessary to process a certification request. As such, it is not subject to the PRA's requirements (5 CFR 1320.3(h)(1)).

List of Subjects in 15 CFR Part 50

Census data, Population census, Seals and insignia, Statistics.

PART 50—SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS

1. The authority citation for 15 CFR Part 50 continues to read as follows:

Authority: Sec. 3, 49 Stat. 293, as amended; 15 U.S.C. 192a. Interprets or applies Sec. 1, 40 Stat. 1256, as amended; Sec. 1, 49 Stat. 292; Sec. 8, 60 Stat. 1013, as amended; 15 U.S.C. 192, 189a; and 13 U.S.C. 8.

2. Add § 50.50 to read as follows:

§ 50.50 Request for certification.

(a) Upon request, the Census Bureau certifies certain statistical materials (such as the population and housing unit counts of government entities, published tabulations, maps, and other documents). The Census Bureau charges customers a preset fee for this service according to the kind of certification requested (either an impressed document or an attestation) and the level of difficulty involved in compiling it (easy, moderate, or difficult, determined according to the resources expended) as well as the set cost of the data product (*e.g.*, report or map) to be certified. Certification prices are shown in the following table:

PRICE BY TYPE OF CERTIFICATION

Product	Estimated price	Estimated time to complete (in hours)
Impress-easy	$70.00	1.5
Impress-medium	110.00	3
Impress-difficult	150.00	4.5
Attestation-easy	160.00	3
Attestation-medium	200.00	4.5
Attestation-difficult ..	240.00	6

(b) There are two forms of certification available: Impressed Documents and Attestation.

(1) *Impressed Documents.* An impressed document is one that is certified by impressing the Census Bureau seal on the document itself. The Census Bureau act, Title 13, United States Code, Section 3, provides that the seal of the Census Bureau shall be affixed to all documents authenticated by the Census Bureau and that judicial notice shall be taken of the seal. This process attests that the document on which the seal is impressed is a true and accurate copy of a Census Bureau record.

(2) *Attestation.* Attestation is a more formal process of certification. It consists of a signed statement by a Census Bureau official that the document is authentic and produced or published by the agency, followed by a

signed statement of another Census Bureau official witnessing the authority of the first.

(c) Requests for certification should be submitted on Form BC–1868(EF), Request for Official Certification, to the Census Bureau by fax, (301) 457–4714 or by e-mail, *webmaster@census.gov.* Form BC–1868(EF) is available on the Census Bureau's Web site at: *http://www.census.gov/mso/www/certification/.* A letter request—without Form BC–1868(EF)—will be accepted only if it contains the information necessary to complete a Form BC–1868(EF). No certification request will be processed without payment of the required fee.

Dated: August 21, 2002.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 02–21709 Filed 8–26–02; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 732, 736, 758, 764, 766 and 772

[Docket No. 020628162–2162–01]

RIN 0694–AC58

Revision to the Export Administration Regulations: Denied Persons List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule removes references in the Export Administration Regulations (EAR) to the ''Denied Persons List'' maintained by the Bureau of Industry and Security because the list is described, but not published, in the Code of Federal Regulations, and is not intended to be legally controlling. This rule also makes a format change in the template of the standard denial order published in the EAR.

EFFECTIVE DATE: This rule is effective August 26, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas W. Andrukonis, Director, Office of Enforcement Analysis, Bureau of Industry and Security, Telephone: (202) 482–4255.

SUPPLEMENTARY INFORMATION:

Background

As described in section 764.3 of the Export Administration Regulations (15 CFR 764.3), the Bureau of Industry and Security (BIS) has the authority to issue an order that restricts the ability of persons named in it to engage in export or reexport transactions of items subject to the Export Administration Regulations (EAR) and restricts their access to items subject to the regulations. These orders may also prohibit all persons from taking certain actions specified in the order because those actions could circumvent the restrictions imposed on the denied person by the order. BIS publishes notices of such orders in the **Federal Register** to provide notice to all persons of the provisions of the order. BIS maintains unofficial compilations of such denial orders, for the convenience of the public, in a ''Denied Persons List'' included in the unofficial version of the EAR and on a Web site. Because these compilations are not included in the Code of Federal Regulations, this rule removes references to the ''Denied Persons List'' from the EAR in parts 732, 736, 758, 764, 766 and 772. References to the ''Denied Persons List'' in part 752 of the EAR will be removed in a separate rule.

This rule also replaces the word ''immediately'' with ''[date]'' in the last sentence of the pro forma standard denial order, because a standard order need not be effective as of the date of signing. This rule does not change the scope of any order denying export privileges, nor does it change the rights or duties of any person with respect to the Export Administration Regulations.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of E.O. 12866.

2. 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, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule does not involve a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to 5 U.S.C. 553(b)(A), the provisions of the Administrative Procedure Act requiring a notice of proposed rulemaking and the opportunity for public comment are waived, because this regulation involves a rule of agency procedure. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

Additionally, pursuant to 5 U.S.C. 553(d)(2), the 30 day delay in effectiveness is waived for the same reason. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to William Arvin, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

List of Subjects

15 CFR Parts 732 and 758

Administrative practice and procedure, Advisory committees, Exports, Foreign trade, Reporting and recordkeeping requirements.

15 CFR Parts 736 and 772

Exports, Foreign trade.

15 CFR Part 764

Administrative practice and procedure, Exports, Foreign trade, Law enforcement, Penalties.

15 CFR Part 766

Administrative practice and procedure, Confidential business information, Exports, Foreign trade.

Accordingly, parts 732, 736, 758, 764, 766 and 772 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

PART 732—[AMENDED]

1. The authority citation for 15 CFR part 732 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

2. Section 732.3 is amended by revising paragraph (g)(1) to read as follows:

§ 732.3 Steps regarding the ten general prohibitions.

* * * * *

(g) * * *

(1) Determine whether your transferee, ultimate end-user, any intermediate consignee, or any other party to a transaction is a person denied export privileges (see part 764 of the EAR). It is a violation of the EAR to

engage in any activity that violates the terms or conditions of a denial order. General Prohibition Four (Denial Orders) applies to all items subject to the EAR, *i.e.*, both items on the CCL and within EAR99.

* * * * *

PART 736—[AMENDED]

3. The authority citation for 15 CFR part 736 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of November 9, 2001, 66 FR 56965, 3 CFR, 2001 Comp., p. 917; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

4. Section 736.2 is amended by revising paragraph (b)(4)(i) to read as follows:

§ 736.2 General Prohibitions and Determination of Applicability.

* * * * *

(b) * * *

(4) * * *

(i) You may not take any action that is prohibited by a denial order issued under part 766 of the EAR, Administrative Enforcement Proceedings. These orders prohibit many actions in addition to direct exports by the person denied export privileges, including some transfers within a single country, either in the United States or abroad, by other persons. You are responsible for ensuring that any of your transactions in which a person who is denied export privileges is involved do not violate the terms of the order. Orders denying export privileges are published in the **Federal Register** when they are issued and are the legally controlling documents in accordance with their terms. BIS also maintains compilations of persons denied export privileges on a Web site and as a supplement to the unofficial edition of the EAR available by subscription from the Government Printing Office. BIS may, on an exceptional basis, authorize activity otherwise prohibited by a denial order. See § 764.3(a)(2) of the EAR.

* * * * *

PART 758—[AMENDED]

5. The authority citation for 15 CFR part 758 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

6. Section 758.2 is amended by revising paragraph (c)(2) to read as follows:

§ 758.2 Automated Export System (AES).

* * * * *

(c) * * *

(2) Applicants are denied persons; or

* * * * *

PART 764—[AMENDED]

7. The authority citation for 15 CFR part 764 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

8. Supplement No. 1 to Part 764 is amended by revising paragraph (a) (the undesignated paragraphs following paragraph (a) are unchanged), revising the heading and introductory text of paragraph (b), and revising the last sentence of the Supplement to read as follows:

SUPPLEMENT NO. 1 TO PART 764–STANDARD TERMS OF ORDERS DENYING EXPORT PRIVILEGES

(a) *General.* (1) Orders denying export privileges may be ''standard'' or ''non-standard.'' This Supplement specifies terms of the standard order denying export privilege with respect to denial orders issued after March 25, 1996. Denial orders issued prior to March 25, 1996 are to be construed, insofar as possible, as having the same scope and effect as the standard denial order. All denial orders are published in the **Federal Register**. The failure by any person to comply with any denial order is a violation of the Export Administration Regulations (EAR) (*see* § 764.2(k) of this part). BIS provides lists of denied persons on a Web site and as a supplement to the unofficial edition of the EAR available by subscription from the Government Printing Office.

(2) Each denial order shall include:

(i) The name and address of any denied persons and any related persons subject to the denial order;

(ii) The basis for the denial order, such as final decision following charges of violation, settlement agreement, section 11(h) of the EAA, or temporary denial order request;

(iii) The period of denial, the effective date of the order, whether and for how long any portion of the denial of export privileges is suspended, and any conditions of probation; and

(iv) Whether any or all outstanding licenses issued under the EAR to the person(s) named in the denial order or in which such person(s) has an interest, are suspended or revoked.

* * * * *

(b) Standard denial order terms. The following are the standard terms for imposing periods of export denial. Some orders also contain other terms, such as those that impose civil penalties, or that suspend all or part of the penalties or period of denial.

* * * * *

This order, which constitutes the final agency action in this matter, is effective [DATE].

9. Supplement No. 2 to Part 764 is removed.

PART 766—[AMENDED]

10. The authority citation for 15 CFR part 766 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

11. Section 766.25 is amended by revising paragraph (f) to read as follows:

§ 766.25 Administrative action denying export privileges.

* * * * *

(f) *Publication.* The orders denying export privileges under this section are published in the **Federal Register** when issued, and, for the convenience of the public, information about those orders may be included in compilations maintained by BIS on a Web site and as a supplement to the unofficial edition of the EAR available by subscription from the Government Printing Office.

* * * * *

PART 772—[AMENDED]

12. The authority citation for 15 CFR part 772 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Notice of August 14, 2002, 67 FR 53721, August 16, 2002.

13. Section 772.1 is amended by removing the definition of ''Denied Persons List.''

Dated: August 15, 2002.

James J. Jochum,

Assistant Secretary for Export Administration.

[FR Doc. 02–21596 Filed 8–26–02; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Clindamycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADAs) filed by Pharmacia and Upjohn Co. for clindamycin hydrochloride oral dosage forms. The supplement to the NADA for an oral liquid provides for an expanded dose range for the use of clindamycin hydrochloride in both dogs and cats for the treatment of certain bacterial infections. The supplement to the NADA for oral capsules provides for an expanded dose range in dogs and for use of a 300-milligram (mg) strength capsule.

DATES: This rule is effective August 27, 2002.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7540, e-mail: mberson@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Pharmacia and Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199, filed supplements to NADA 135–940 that provides for use of ANTIROBE (clindamycin hydrochloride) Aquadrops Liquid and to NADA 120–161 for ANTIROBE (clindamycin hydrochloride) Capsules. Supplemental NADA 135–940 provides for an expanded dose range for the use of clindamycin hydrochloride in both dogs and cats for the treatment of certain infections associated with bacteria susceptible to clindamycin hydrochloride. Supplemental NADA 120–161 provides for the same expanded dose range in dogs and for use of a 300-mg strength capsule. The supplemental applications are approved as of May 13, 2002, and the regulations are amended in §§ 520.446 and 520.447 (21 CFR 520.446 and 520.447) to reflect these approvals. The basis of these approvals is discussed in the freedom of information summaries. Sections 520.446 and 520.447 are also being revised to reflect a current format.

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

FDA has determined under 21 CFR 25.33(d)(1) that these actions are of a type that do not individually or cumulatively have a significant effect on the human environment. Therefore, neither environmental assessments nor environmental impact statements are required.

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

List of Subject in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

2. Section 520.446 is revised to read as follows:

§ 520.446 Clindamycin capsules and tablets.

(a) *Specifications*—(1) Each capsule contains the equivalent of 25, 75, 150, or 300 milligrams (mg) clindamycin as the hydrochloride salt.

(2) Each capsule contains the equivalent of 25, 75, or 150 mg clindamycin as the hydrochloride salt.

(3) Each tablet contains the equivalent of 25, 75, or 150 mg clindamycin as the hydrochloride salt.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

(1) No. 000009 for use of capsules described in paragraph (a)(1) of this section as in paragraphs (d)(1)(i) and (d)(2)(i) of this section.

(2) No. 059130 for use of capsules described in paragraph (a)(2) of this section as in paragraphs (d)(1)(ii) and (d)(2)(ii) of this section.

(3) No. 059079 for use of tablets described in paragraph (a)(3) of this section as in paragraphs (d)(1)(ii) and (d)(2)(ii) of this section.

(c) *Special considerations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use in dogs*—(1) *Amount*—(i) Wounds, abscesses, and dental infections: 2.5 to 15 mg per pound (/lb) of body weight every 12 hours for a maximum of 28 days. Osteomyelitis: 5.0 to 15 mg/lb of body weight every 12 hours for a minimum of 28 days.

(ii) Wounds, abscesses, and dental infections: 2.5 mg/lb of body weight every 12 hours for a maximum of 28 days. Osteomyelitis: 5.0 mg/lb of body weight every 12 hours for a minimum of 28 days.

(2) *Indications for use*—(i) For the treatment of skin infections (wounds and abscesses) due to susceptible strains of coagulase-positive staphylococci (*Staphylococcus aureus* or *S. intermedius)*, deep wounds and abscesses due to susceptible strains of *Bacteroides fragilis*, *Prevotella melaninogenicus*, *Fusobacterium necrophorum*, and *Clostridium perfringens*, dental infections due to susceptible strains of *S. aureus*, *B. fragilis*, *P. melaninogenicus*, *F. necrophorum*, and *C. perfringens*, and osteomyelitis due to susceptible strains of *S. aureus*, *B. fragilis*, *P. melaninogenicus*, *F. necrophorum*, and *C. perfringens.*

(ii) For the treatment of soft tissue infections (wounds and abscesses), dental infections, and osteomyelitis caused by susceptible strains of *S. aureus*, soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *B. fragilis*, *P. melaninogenicus*, *F. necrophorum*, and *C. perfringens.*

3. Section 520.447 is revised to read as follows:

§ 520.447 Clindamycin liquid.

(a) *Specifications.* Each milliliter of solution contains the equivalent of 25 milligrams (mg) clindamycin as the hydrochloride salt.

(b) *Sponsors.* See sponsors in § 510.600(c) of this chapter as follows:

(1) No. 000009 for use as in paragraphs (d)(1)(i)(A), (d)(1)(ii)(A), (d)(2)(i)(A), and (d)(2)(ii)(A) of this section.

(2) No. 059130 for use as in paragraphs (d)(1)(i)(B), (d)(1)(ii)(B), (d)(2)(i)(B), and (d)(2)(ii)(B) of this section.

(c) *Special considerations.* Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d) *Conditions of use*—(1) *Dogs*—(i) *Amount*—(A) Wounds, abscesses, and dental infections: 2.5 to 15 mg per

pound (/lb) of body weight every 12 hours for a maximum of 28 days. Osteomyelitis: 5.0 to 15 mg/lb of body weight every 12 hours for a minimum of 28 days.

(B) Wounds, abscesses, and dental infections: 2.5 mg per pound (/lb) of body weight every 12 hours for a maximum of 28 days. Osteomyelitis: 5.0 mg/lb of body weight every 12 hours for a minimum of 28 days.

(ii) *Indications for use*—(A) For the treatment of skin infections (wounds and abscesses) due to susceptible strains of coagulase-positive staphylococci (*Staphylococcus aureus* or *S. intermedius*), deep wounds and abscesses due to susceptible strains of *Bacteroides fragilis*, *Prevotella melaninogenicus*, *Fusobacterium necrophorum*, and *Clostridium perfringens*, dental infections due to susceptible strains of *S. aureus*, *B. fragilis*, *P. melaninogenicus*, *F. necrophorum*, and *C. perfringens*, and osteomyelitis due to susceptible strains of *S. aureus*, *B. fragilis*, *P. melaninogenicus*, *F. necrophorum*, and *C. perfringens*.

(B) For the treatment of soft tissue infections (wounds and abscesses), dental infections, and osteomyelitis caused by susceptible strains of *S. aureus* and for soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *B. fragilis*, *P. melaninogenicus*, *F. necrophorum*, and *C. perfringens*.

(2) Cats—(i) *Amount*—(A) 5.0 to 15.0 mg/lb of body weight every 24 hours for a maximum of 14 days.

(B) 5.0 to 10.0 mg/lb of body weight every 24 hours for a maximum of 14 days.

(ii) *Indications for use*—(A) For the treatment of skin infections (wounds and abscesses) due to susceptible strains of *S. aureus*, *S. intermedius*, *Streptococcus* spp., deep wounds and abscesses due to susceptible strains of *Clostridium perfringens* and *Bacteroides fragilis*, and dental infections due to susceptible strains of *S. aureus*, *S. intermedius*, *Streptococcus* spp., *C. perfringens*, and *B. fragilis*.

(B) Aerobic bacteria: Treatment of soft tissue infections (wounds and abscesses) and dental infections caused by or associated with susceptible strains of *S. aureus*, *S. intermedius*, and *Streptococcus* spp. Anaerobic bacteria: Treatment of soft tissue infections (deep wounds and abscesses) and dental infections caused by or associated with susceptible strains of *C. perfringens* and *B. fragilis*.

Dated: July 17, 2002.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 02–21733 Filed 8–26–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 3

RIN 0790–AG92

Transactions Other Than Contracts, Grants, or Cooperative Agreements for Prototype Projects

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This final rule codifies the conditions for appropriate use and defines a nontraditional Defense contractor consistent with section 803 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. Representatives of the military departments, Defense agencies and other DoD activities, have agreed on a final rule that amends the interim rule as a result of comments received. Audit policy is still being discussed and will be addressed by a separate rule, as appropriate.

EFFECTIVE DATE: This final rule is effective August 27, 2002.

FOR FURTHER INFORMATION CONTACT: Teresa Brooks, (703) 695–8567.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Section 845 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, as amended, authorizes the Secretary of a Military Department, the Director of Defense Advanced Research Projects Agency and any other official designated by the Secretary of Defense, to enter into transactions other than contracts, grants or cooperative agreements in certain situations for prototype projects that are directly relevant to weapons or weapon systems proposed to be acquired or developed by the Department of Defense. Such transactions are commonly referred to as ''other transaction'' agreements for prototype projects. To the extent that a particular statute or regulation is limited in its applicability to the use of a procurement contract, it would generally not apply to ''other transactions'' for prototype projects.

Part 3 to 32 CFR was established to codify policy pertaining to prototype ''other transactions'' that have a significant impact on the public and are subject to rulemaking. Additional guidance on prototype ''other transactions'' directed at Government officials can be found on the Defense Procurement web site at: *http://www.osd.dp.mil.*

A proposed rule was published in the **Federal Register** for public comment on November 21, 2001 (66 FR 58422–58425). A notice of public meeting was published in the **Federal Register** on March 4, 2002 (67 FR 9632) and held on March 27, 2002. The proposed rule addressed conditions on use of ''other transactions'' for prototype projects, the nontraditional Defense contractor definition and audit policy. Comments on the proposed rule were received from five respondents and approximately 50 representatives of Government and industry attended the public meeting. The majority of the written comments and discussion at the public meeting focused on the audit policy and will be addressed in a later rule. Only one respondent commented on the conditions of law and none commented on the definition of a nontraditional Defense contractor. The following summarizes the comments regarding the conditions of law and the disposition.

A. Consistency of Terms

One respondent identified the use of undefined terms that are confusing (e.g., ''subordinate element of the party or entities,'' ''awardee'') and recommended expanding upon defined terms such a business unit and segment. The respondent recommended defined terms be consistently used through out the rule or definitions be added for undefined terms.

Response: The DoD agrees. The final rule includes additional definitions and made changes to ensure consistent use throughout the rule.

B. Applicability of Limitations

One respondent(s) questioned whether the statement ''As a matter of policy, these same restrictions apply any time cost sharing may be recognized when using OTA'' was intended to apply to all OTAs, not just OTAs for prototype projects. The respondent recommended it be deleted from this rule and be included in a new rule that applies to all OTA.

Response: The DoD agrees the statement was confusing. The final rule establishes ''Limitations on Cost-Sharing'' as a separate section and clarifies that as a matter of policy, the cost-sharing limitations will also be applied to other OT agreements for prototype projects that provide for non-Federal cost-share.

Regulatory Evaluation

Executive Order 12866, ''Regulatory Planning and Review''

It has been determined that this rule is not a significant rule as defined under section 3(f)(1) through 3(f)(4) of Executive Order 12866.

Unfunded Mandates Reform Act (Sec. 202, Public Law 104–4)

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that this part is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The rule does not require additional record keeping or other significant expense by project participants.

Public Law 96–511, ''Paperwork Reduction Act of 1995'' (44 U.S.C. 3501 et seq.)

It has been certified that this rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act of 1995.

Federalism (Executive Order 13132)

It has been certified that this rule does not have federalism implications, as set forth in Executive Order 13132.

List of Subjects in 32 CFR part 3

Government procurement, Transactions for prototype projects.

Accordingly, part 3 of 32 CFR is amended as follows:

PART 3—TRANSACTIONS OTHER THAN CONTRACTS, GRANTS, OR COOPERATIVE AGREEMENTS FOR PROTOTYPE PROJECTS

1. The authority citation for part 3 is revised to read as follows;

Authority: Sec. 845, Pub. L. 103–160, 107 Stat. 1547, as amended.

2. Section 3.1 is revised to read as follows:

§ 3.1 Purpose.

This part consolidates rules that implement section 845 of the National Defense Authorization Act for Fiscal Year 1994, Public Law 103–160, 107 Stat. 1547, as amended, and have a significant impact on the public. Section 845 authorizes the Secretary of a Military Department, the Director of Defense Advanced Research Projects Agency, and any other official designated by the Secretary of Defense, to enter into transactions other than contracts, grants, or cooperative agreements in certain situations for prototype projects that are directly relevant to weapons or weapon systems proposed to be acquired or developed by the Department of Defense.

§§ 3.2, 3.3, and 3.4 [Redesignated as §§ 3.3, 3.4, and 3.7]

3. Section 3.2, 3.3, and 3.4 are redesignated as §§ 3.3, 3.4, and 3.7, respectively.

4. New § 3.2 is added to read as follows:

§ 3.2 Background.

''Other transactions'' is the term commonly used to refer to the 10 U.S.C. 2371 authority to enter into transactions other than contracts, grants or cooperative agreements. ''Other transactions'' are generally not subject to the Federal laws and regulations limited in applicability to contracts, grants or cooperative agreements. As such, they are not required to comply with the Federal Acquisition Regulation (FAR) and its supplements (48 CFR).

5. Newly redesignated § 3.4 is amended to add new definitions in alphabetical order to read as follows:

§ 3.4 Definitions.

Agreements Officer. An individual with the authority to enter into, administer, or terminate OTs for prototype projects and make related determinations and findings.

Awardee. Any business unit that is the direct recipient of an OT prototype agreement.

Business unit. Any segment of an organization, or an entire business organization which is not divided into segments.

* * * * *

Nontraditional Defense contractor. A business unit that has not, for a period of at least one year prior to the date of the OT agreement, entered into or performed on:

(1) Any contract that is subject to full coverage under the cost accounting standards prescribed pursuant to section 26 of the Office of Federal Procurement Policy Act (41 U.S.C. 422) and the regulations implementing such section; or

(2) Any other contract in excess of $500,000 to carry out prototype projects or to perform basic, applied, or advanced research projects for a Federal agency, that is subject to the Federal Acquisition Regulation.

Segment. One of two or more divisions, product departments, plants, or other subdivisions of an organization reporting directly to a home office, usually identified with responsibility for profit and/or producing a product or service.

Senior Procurement Executive. The following individuals:

(1) Department of the Army—Assistant Secretary of the Army (Acquisition, Logistics and Technology);

(2) Department of the Navy—Assistant Secretary of the Navy (Research, Development and Acquisition);

(3) Department of the Air Force—Assistant Secretary of the Air Force (Acquisition);

(4) The Directors of Defense Agencies who have been delegated authority to act as Senior Procurement Executive for their respective agencies.

Subawardee. Any business unit of a party, entity or subordinate element performing effort under the OT prototype agreement, other than the awardee.

6. New § 3.5 is added to read as follows:

§ 3.5 Appropriate use.

In accordance with statute, this authority may be used only when:

(a) At least one nontraditional Defense contractor is participating to a significant extent in the prototype project; or

(b) No nontraditional Defense contractor is participating to a significant extent in the prototype project, but at least one of the following circumstances exists:

(1) At least one third of the total cost of the prototype project is to be paid out of funds provided by non-Federal parties to the transaction.

(2) The Senior Procurement Executive for the agency determines in writing that exceptional circumstances justify the use of a transaction that provides for innovative business arrangements or structures that would not be feasible or appropriate under a procurement contract.

7. New § 3.6 is added to read as follows:

§ 3.6 Limitations on cost-sharing.

(a) When a nontraditional Defense contractor is not participating to a significant extent in the prototype project and cost-sharing is the reason for using OT authority, then the non-Federal amounts counted as provided, or to be provided, by the business units of an awardee or subawardee participating in the performance of the OT agreement may not include costs that were incurred before the date on

which the OT agreement becomes effective. Costs that were incurred for a prototype project by the business units of an awardee or subawardee after the beginning of negotiations, but prior to the date the OT agreement becomes effective, may be counted as non-Federal amounts if and to the extent that the Agreements Officer determines in writing that:

(1) The awardee or subawardee incurred the costs in anticipation of entering into the OT agreement; and

(2) It was appropriate for the awardee or subawardee to incur the costs before the OT agreement became effective in order to ensure the successful implementation of the OT agreement.

(b) As a matter of policy, these limitations on cost-sharing apply any time cost-sharing may be recognized when using OT authority for prototype projects.

8. Newly redesignated § 3.7 is amended by revising the section heading to read as follows:

§ 3.7 Comptroller General access.

* * * * *

Dated: August 14, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–21267 Filed 8–26–02; 8:45 am]

BILLING CODE 5001–08–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 111–0050a; FRL–7261–7]

Revision to the Arizona State Implementation Plan, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving a local rule that regulates excess emissions from malfunctions, startups, and shutdowns.

DATES: This rule is effective on October 28, 2002, without further notice, unless EPA receives adverse comments by September 26, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Gerardo Rios, Permits Office Chief (AIR–3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted SIP revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington D.C. 20460.

Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North central Avenue, Suite 201, Phoenix, AZ 85004.

A courtesy copy of the rule may be available via the Internet at *http://www.maricopa.gov/envsvc/air/ruledesc.asp.* However, this version of the rule may be different than the version submitted to EPA for approval. Readers are cautioned to verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval. The official submittal is only available at the agency addresses listed above.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the dates that it was adopted by the local air agency and submitted by the Arizona Department of Environmental Quality.

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Revised	Submitted
MCESD	140	Excess Emissions	09/05/01	02/22/02

On April 12, 2002 this rule submittal was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

There is no previous version of Rule 140 in the SIP.

C. What Is the Purpose of the Submitted Rule?

The purpose of Rule 140 is to provide an owner and/or operator of a source who has been charged with a violation for excess emissions with an affirmative defense to a civil or administrative enforcement penalty. To qualify for the limited affirmative defense to a penalty action, the source must demonstrate compliance with listed criteria and reporting requirements set forth in Rule 140. Moreover, the affirmative defense does not apply to a SIP provision required by federally promulgated performance standards or emission limits, such as new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS). The defense also does not apply to violations in areas where a single source has the potential to cause an exceedence of the National Ambient Air Quality Standards (NAAQS) or

Prevention of Significant Deterioration (PSD) increments. The TSD has more information about this rule.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rule?

This rule contains administrative provisions and standards that apply to emission controls found in other local agency requirements. In combination with those other requirements, this rule must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). EPA policy that we used to define specific enforceability requirements includes:

- *State Implementation Plans: Policy Regarding Excess Emissions during Malfunctions, Startup, and Shutdown,* EPA Memorandum from Steven Herman and Robert Perciasepe to Regional Administrators, Regions I–X (September 20, 1999).
- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D,* November 24, 1987 **Federal Register** Notice, (Blue Book), notice of availability published in the May 25, 1988 **Federal Register.**

B. Does the Rule Meet the Evaluation Criteria?

Rule 140 excludes injunctive relief, federally promulgated emission standards or limitations, and violations in areas with single sources have the potential to exceed the NAAQS from the rule's affirmative defense to enforcement penalties. Rule 140 excludes any violation of standards and limitations included in a permit to meet requirements for pollutant significance levels in adjacent nonattainment areas where primary or secondary ambient air quality standards are being violated. These exclusions assure that Rule 140 will not interfere with the NAAQS and PSD increments, as required by sections 110(a) and (l) of the CAA.

We believe Rule 140 is consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and EPA's policy regarding excess emissions. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by September 26, 2002, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on October 28, 2002. This will incorporate this rule into the federally enforceable SIP.

III. Background Information

A. Why Was This Rule Submitted?

Section 110(a) of the CAA requires states to submit regulations that control volatile organic compounds, oxides of nitrogen, particulate matter, and other air pollutants which harm human health and the environment. This rule was developed as part of the local agency's program to control these pollutants.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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 CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. section 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. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2002. 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. Section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: July 25, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(106) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(106) Amended rule for the following agency was submitted on February 22, 2002, by the governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(*1*) Rule 140, revised on September 5, 2001.

* * * * *

[FR Doc. 02–21663 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 160–1160a; FRL–7267–6]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision to the state's construction permits rule exempts incinerators used for the on-site noncommercial incineration of dead animals from the construction permit requirements. We are approving this revision to ensure consistency between the state and Federally-approved rules, and to ensure Federal enforceability of the state's revised rule.

DATES: This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 26, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?
What Is the Federal Approval Process for a SIP?
What Does Federal Approval of a State Regulation Mean to Me?
What Is Being Addressed in This Document?
Have the Requirements for Approval of a SIP Revision Been Met?
What Action Is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On May 30, 2002, we received a request from the Missouri Department of Natural Resources (MDNR) to amend the Missouri SIP. This request pertained to rule 10 C.S.R. 10–6.060, Construction Permits Required. This rule defines sources which are required to obtain permits to construct and establishes requirements to be met prior to

construction or modification of any of these sources.

Prior to this revision, this rule applied to all incinerators. However, on May 28, 2000, the MDNR was notified by the state Attorney General's office that the authority to regulate these types of incinerators was limited by state statute to the University of Missouri Extension Service.

On the recommendation of the Attorney General's office, the MDNR has revised this rule to add an exemption for this type of incinerator. Specifically, subparagraph (O) was added to subsection (1)(D)(1)—Exempt Emission Units. This exemption reads: ''Noncommercial incineration of dead animals, the on-site incineration of resident animals for which no consideration is received or commercial profit is realized, as authorized in section 269.020.6, RSMo 2000.''

The MDNR has submitted emission inventory information which confirms that emissions from these sources is minimal (for example, particulate emissions are approximately one ton per year, or less), and that this exemption is not likely to have an adverse impact on ambient air quality. These sources will continue to be constructed and operated in accordance with the requirements of the University of Missouri Extension Service. Thus, we are taking action to approve this revision to the Missouri SIP.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Final action: EPA is approving as an amendment to the Missouri SIP revisions to rule 10 C.S.R. 10–6.060, Construction Permits Required, pursuant to section 110 of the CAA.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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 CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2002. 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for ''10–6.060'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
*	*	*	*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
*	*	*	*	*
10–6.060	Construction Permits Required.	5/30/02	8/27/02 and FR cite.	Section 9, pertaining to hazardous air pollutants, is not part of the SIP.
*	*	*	*	*

* * * * *

[FR Doc. 02–21667 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 158–1158a; FRL–7267–3]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision pertains to the state's compliance monitoring usage rule. This revision corrects a reference in the rule so that Federal monitoring methods are now acceptable as a means to demonstrate compliance. This revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised rule.

DATES: This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 26, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is an SIP?
What Is the Federal Approval Process for an SIP?
What Does Federal Approval of a State Regulation Mean to Me?
What Is being Addressed in This Document?
Have the Requirements for Approval of an SIP Revision Been Met?
What Action Is EPA Taking?

What Is an SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for an SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have

approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On April 26, 2002, we received a request from the Missouri Department of Natural Resources to amend the Missouri SIP. This request pertained to rule 10 CSR 10–6.280, Compliance Monitoring Usage. The purpose of this rule is to establish acceptable alternate compliance certification methods for sources submitting compliance certifications and to establish credible evidence of compliance.

Prior to this revision, the state rule made reference to rule 10 CSR 10–6.290, Enhanced Monitoring, which was to be adopted in the future. This rule was never developed. The state decided instead to reference the monitoring methods in 40 CFR part 64 as one of the methods available to sources needing to submit a compliance certification and to establish credible evidence of compliance. Therefore, the state rule has been revised in two places to delete the reference to 10 CSR 10–6.290, and to add the reference to 40 CFR part 64.

Specifically, paragraph 1 of subsections (A) and (B), section (3) General Provisions, was revised to read as follows, ''Monitoring methods outlined in 40 CFR part 64.''

Since this revision corrects the reference to a non-existing rule and now references the federal monitoring methods, we are taking action to approve this revision to the Missouri SIP.

Have the Requirements for Approval of an SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Final action: EPA is approving as an amendment to the Missouri SIP, revisions to rule 10 CSR 10–6.280, Compliance Monitoring Usage, pursuant to section 110 of the CAA.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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 CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove an SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an SIP submission, to use VCS in place of an SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2002. 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 12, 2002.

William A. Spratlin,

Acting Regional Administrator, Region 7.

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

2. In § 52.1320(c) the table under Chapter 6 is amended by revising the entry for ''10–6.280'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * *			*	*
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * *			*	*
10–6.280	Compliance Monitoring Usage	3/30/02	8/27/02 and FR cite	
* * * * *			*	*

* * * * *

[FR Doc. 02–21659 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 268–0360; FRL–7263–8]

Determination of Attainment of the 1-Hour Ozone Standard for the Santa Barbara County Area, CA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this rulemaking, EPA is finalizing its determination that the Santa Barbara County area has attained the 1-hour ozone air quality standard by the deadline required by the Clean Air Act (CAA). EPA is also finalizing its approval of the 1-hour ozone contingency measures as revisions to the Santa Barbara portion of the California State Implementation Plan (SIP).

EFFECTIVE DATE: This rule is effective on September 26, 2002.

ADDRESSES: You can inspect copies of the docket for this action at EPA's Region 9 office during normal business hours. You can inspect copies of the submitted SIP revision at the following locations:

U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

California Air Resources Board, 1001 I Street, Sacramento, CA 95814

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, Suite B–23, Goleta, CA 93117

FOR FURTHER INFORMATION CONTACT: Dave Jesson, EPA Region 9, (415) 972–3957, or *Jesson.David@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to EPA.

I. Proposed Action

On July 1, 2002 (67 FR 44128), we proposed to find that the Santa Barbara County nonattainment area (''Santa Barbara area'') had attained the 1-hour ozone national ambient air quality standard (NAAQS) by the applicable deadline of November 15, 1999. We also proposed to approve under CAA section 110(k)(3) the contingency measures in Santa Barbara's 2001 Clean Air Plan, as shown below in ''Table 1—Contingency Measures.''

TABLE 1.—CONTINGENCY MEASURES

[Source: 2001 Clean Air Plan, Table 4–3]

Rule No.	CAP control measure ID	Description	Adoption schedule	Emission reductions in tons per day (with full implementation)	
				VOC	NO_X
323	R–SC–1	Architectural Coatings (Revision)	2001–2003	0.0998	0
333	N–IC–1 N–IC–3	Stationary IC Engines	2002–2003	0.0008	0.0128
360	N–XC–2	Large Water Heaters & Small Boilers, Steam Generators, Process Heaters (75,000 Btu/hr to <2 MMBtu/hr).	2001–2003	0	[1] 0.133
321	R–SL–1	Solvent Degreasers (Revision)	2004–2006	0.0562	0
362	R–SL–2	Solvent Cleaning Operations	2004–2006	1.0103	0
363	N–IC–2	Gas Turbines	2004–2006	0	0
358	R–SL–4	Electronic Industry—Semiconductor Manufacturing	2007–2009	[2] 0.0026	0

TABLE 1.—CONTINGENCY MEASURES—Continued

[Source: 2001 Clean Air Plan, Table 4–3]

Rule No.	CAP control measure ID	Description	Adoption schedule	Emission reductions in tons per day (with full implementation)	
				VOC	NO_X
361	N–XC–4	Small Industrial and Commercial Boilers, Steam Generators, and Process Heaters (2 MMBtu/hr to <5 MMBtu/hr).	2007–2009	0	[3] 0.0028

[1] This is with 15% implementation, the highest implementation figure available from the Santa Barbara County Air Pollution Control District's analysis.
[2] The data shown is for source classification code (SCC) number 3–13–065–06 only. The emission data for the SCC numbers and the category of emission source (CES) numbers subject to Rule 358 are included in the Rule 321 or Rule 361 emission reduction summaries.
[3] The emission reductions shown are based on Rule 361 being a point-of-sale type rule.

The proposed action contains more information on the attainment finding, the Santa Barbara contingency measures, and our evaluation.

II. Public Comments

We received no public comments on the proposed action.

III. EPA Action

Under CAA section 181(b)(2)(A), we are finalizing our finding that Santa Barbara has attained the 1-hour ozone NAAQS by the applicable deadline. We are also approving the contingency measures identified in Table 1, under CAA section 110(k)(3).

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and finds that an area has attained a previously-established national ambient air quality standard based on an objective review of measured air quality data. As such, the action imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard and finds that an area has attained applicable air quality standards, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

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 October 28, 2002. 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 8, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(298) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(298) New and amended contingency measures for the following APCDs were submitted on May 29, 2002, by the Governor's designee.

(i) Incorporation by reference.

(A) Santa Barbara County Air Pollution Control District.

(*1*) 2001 Clean Air Plan Contingency Control Measures R–SC–1 (Architectural Coatings); N–IC–1 and N–IC–3 (Control of Emissions from Reciprocating Internal Combustion Engines); N–XC–2 (Large Water Heaters and Small Boilers, Steam Generators, and Process Heaters); R–SL–2 (Solvent Degreasers) [incorrectly identified as CAP Control Measure R–SL–1 in Table 4–3, ''Proposed APCD Control Measures'']; R–SL–2 (Solvent Cleaning Operations); N–IC–2 (Gas Turbines); R–SL–4 (Electronic Industry—Semiconductor Manufacturing); N–XC–4 (Small Industrial and Commercial Boilers, Steam Generators, and Process Heaters), adopted on November 15, 2001.

* * * * *

[FR Doc. 02–21285 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 157–1157a; FRL–7266–9]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision pertains to excess emissions emitted during start-up, shutdown, and malfunction conditions and the affirmative defenses available to sources. This revision updates the existing state rule to be consistent with EPA guidance. This revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's revised rule.

DATES: This direct final rule will be effective October 28, 2002, unless EPA receives adverse comments by September 26, 2002. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This section provides additional information by addressing the following questions:

What Is a SIP?
What Is The Federal Approval Process for a SIP?
What Does Federal Approval of a State Regulation Mean to Me?
What Is Being Addressed In This Document?
Have the Requirements for Approval of a SIP Revision Been Met?
What Action Is EPA Taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, Part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

On September 20, 1999, we issued updated policy regarding excess emissions during malfunctions, startup,

and shutdowns.[1] This policy specifies criteria for SIPs which address periods of excess emissions due to malfunctions, startup, or shutdown.

The state of Missouri has subsequently revised its existing SIP approved rule, 10 CSR 10–6.050 Start-Up, Shutdown and Malfunction Conditions, to incorporate certain provisions of the policy which had not previously been included in the rule. In a submittal letter dated April 16, 2002, the state requested that we approve this revision as an amendment to the Missouri SIP.

The state's rule, applicable to all installations in Missouri, provides the owner or operator of an installation the opportunity to submit data regarding conditions which result in excess emissions. These submittals will be used by the MDNR director to determine whether the excess emissions were due to a start-up, shutdown or malfunction condition. These determinations will be used in deciding whether or not enforcement action is appropriate.

In revising its rule, the state incorporated, in subsection (3)(C), additional factors to be considered by the director, and added additional information requirements in subsection (3)(A) and paragraph (3)(C)2. Language was added in subsections (3)(A) and (3)(B) to set a threshold of one hour for excess emissions which require a written report. The requirement to report excess emissions on the annual Emissions Inventory Questionnaire was clarified in subsection (4)(B). Other revisions were made to make the rule consistent with Title V requirements. The definitions section was removed since all relevant definitions are contained in the state's definition rule, 10 CSR 10–6.020. Finally, the format of the rule was revised to be consistent with the state's new standard rule format. The state's revisions were effective February 28, 2002.

In summary, the revised rule is consistent with EPA's aforementioned policy. Thus, we are taking action to approve this revision in the Missouri SIP.

Have the Requirements for Approval of a SIP Revision Been Met?

The state submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in more detail in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

What Action Is EPA Taking?

We are processing this action as a final action because the revisions make routine changes to the existing rules which are noncontroversial. Therefore, we do not anticipate any adverse comments. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

Final action: EPA is approving as an amendment to the Missouri SIP revisions to rule 10 CSR 10–6.050, ''Start-Up, Shutdown and Malfunction Conditions'' pursuant to section 110 of the CAA.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action 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 CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2002. 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

[1] Memorandum from Steven Herman and Robert Perciasepe to Regional Administrators, Regions I–X; *State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown.*

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 in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

Chapter I title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for ''10–6.050'' to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

Missouri citation	Title	State effective date	EPA approval date	Explanation
Missouri Department of Natural Resources				
* * * * * * *				
Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri				
* * * * * * *				
10–6.050	Start-Up, Shutdown and Malfunction Conditions	2/28/02	8/27/02 and FR *cite*	
* * * * * * *				

* * * * *

[FR Doc. 02–21661 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173, 177, and 178

[Docket No. RSPA–98–3971 (HM–226)]

RIN 2137–AD13

Hazardous Materials: Revision to Standards for Infectious Substances; Correction

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Correction to final rule effective date.

SUMMARY: This document corrects the effective dates for a final rule revising transportation requirements for infectious substances, published in the **Federal Register** on August 14, 2002 (67 FR 53118). The effective date for the final rule and the incorporation by reference approval date are corrected to February 14, 2003.

DATES: The effective date of the final rule amending 49 CFR Parts 171, 172, 173, 177, and 178, published at 67 FR 53118 on August 14, 2002, is corrected to February 14, 2003.

The incorporation by reference of publications listed in this final rule has been approved by the Director of the Federal Register as of February 14, 2003.

FOR FURTHER INFORMATION CONTACT: Susan Gorsky (202) 366–8553, Office of Hazardous Materials Standards, Research and Special Programs Administration.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 2002, the Research and Special Programs Administration issued a final rule to revise the Hazardous Materials Regulations (HMR; 49 CFR Parts 171–180) as they apply to the transportation of infectious substances. The published effective date was October 1, 2002.

Need for Correction

The October 1, 2002 effective date does not provide sufficient time for all segments of the industry to come into compliance with the new requirements.

Correction

In rule document 02–20118, on page 53118 in the issue of Wednesday, August 14, 2002, make the following correction:

On page 53118 in the first column, in the **DATES** section, the effective dates of the final rule and the IBR approval are corrected to read as set forth above in the **DATES** section of this document.

Issued in Washington, DC on August 16, 2002 under authority delegated in 49 CFR Part 106.

Ellen G. Engleman,

Administrator, Research and Special Programs Administration.

[FR Doc. 02–21473 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH56

Endangered and Threatened Wildlife and Plants; Removal of *Potentilla robbinsiana* (Robbins' cinquefoil) From the Federal List of Endangered and Threatened Plants

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have determined that *Potentilla robbinsiana*, commonly called Robbins' cinquefoil, is no longer an endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. This determination is based on available data indicating that this species has recovered. The main population of the species currently has more than 14,000 plants, and the 2 transplant populations have reached or surpassed minimum viable population size. This action removes *Potentilla robbinsiana* from the List of Endangered and Threatened Plants and removes the designation of critical habitat.

This rule includes a proposed 5-year post-delisting monitoring plan as required for species that are delisted due to recovery. The plan will include monitoring of population trends of both natural and transplant populations.

DATES: This rule is effective September 26, 2002.

ADDRESSES: The administrative file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Northeast Regional Office, 300 Westgate Center Drive, Hadley, Massachusetts 01035 (telephone (413) 253–8628).

FOR FURTHER INFORMATION CONTACT: Diane Lynch at (413) 253–8628 or the above address.

SUPPLEMENTARY INFORMATION:

Background

Although its discovery was not formalized until 1840 (Torrey and Gray, 1840), the first recorded collection of *Potentilla robbinsiana* (Robbins' or dwarf cinquefoil) by Thomas Nuttall in 1824 generated a strong interest among botanists and others in this diminutive member of the rose family (*Rosaceae*). Initially, there was confusion as to its taxonomic status, and it was designated as a variety of various European cinquefoils, but it was eventually recognized as a distinct species (Rydberg, 1896).

Potentilla robbinsiana is a long-lived perennial herb. Its hairy three-part compound leaves are deeply toothed, and mature plants form a dense 2–4 centimeter (cm) (1–1.5 inch (in)) rosette. Individual plants develop a deep central taproot, which helps to anchor them and resists frost heaving. *Potentilla robbinsiana* is one of the first plants to bloom in the alpine zone where it is found, flowering soon after the snows recede, from late May to mid-June. Adult plants produce from 1 to 30, 5-petalled yellow flowers on individual stems. The achenes (fruits) mature by late July, and disperse on dry windy days. These seeds seldom disperse more than 20 cm (8 in) from the parent plant, which limits natural reestablishment (Kimball and Paul, 1986). The seeds remain dormant for at least one winter, and germination begins the following year during June and July. Although seed viability is generally high, seedling survival is low (Iszard-Crowley and Kimball, 1998).

Various experiments have shown that *Potentilla robbinsiana* produces seed asexually so that seedlings are genetically identical (Lee and Greene, 1986). This species has the chromosome number 49 that allows it to maintain itself through asexual reproduction, which partially explains the low genetic variability found within the sampled population (David O'Malley, personal communication, 2000).

Potentilla robbinsiana is endemic to the White Mountains of New Hampshire and is restricted to two small, distinct areas on lands administered by the White Mountain National Forest. Herbaria collections suggest that historically there may have been a number of small populations in close proximity to these two areas. Currently there are only two natural populations. Reports of occurrences outside of New Hampshire have been discounted (Cogbill, 1993), and records indicate that *Potentilla robbinsiana* has always had a very narrow geographic distribution.

The largest natural population of *Potentilla robbinsiana* occurs on Monroe Flats located just above treeline on a col (saddle) between Mt. Monroe and Mt. Washington in the Presidential Range. Within this small area (less than 1 hectare (ha) (2.5 acres (ac))), the population is well established with more than 14,000 plants at present. Considering its local abundance and density at this one location, we assume that some of the unique features of Monroe Flats are important habitat requirements for *Potentilla robbinsiana*. Monroe Flats (elev. 1,550 meters (m) (5,085 feet (ft.)) consists of an exposed low dome that is covered with alternating bands of relatively barren small-stoned terraces and thickly vegetated mats. Blowing winds keep the Monroe Flats mostly free of snow and ice throughout the winter, leaving the vegetation exposed to the abrasive action of blowing snow and ice, and desiccating winds. The moist, barren soils are also susceptible to frost disturbance from freeze-thaw cycles for much of the year. In this extreme environment of moderate solifluction (soil movement downslope) and exposed topography, *Potentilla robbinsiana* occupies a narrow niche: It is likely a poor competitor with other species, but is able to thrive in a harsh environment where few other species can survive (Cogbill, 1987).

The second extant natural population occurs on Franconia Ridge, 30 kilometers (km) (18.6 miles (mi)) to the west of the Monroe Flats population. Although still within the alpine zone, the habitat here is markedly different. A limited number of plants grow at a site on the south end of the Franconia Ridge in crevices along the side of a vertical cliff just below the ridgeline. Although records indicate that the Franconia population was never very large, it is likely that these few plants are the remnants of a larger population from more suitable habitat that previously existed along the top of the ridge. The habitat has long since eroded and the plants have disappeared due to hiking activity along a ridgeline trail.

Potentilla robbinsiana was listed as endangered on September 17, 1980, and critical habitat encompassing the Monroe Flats population was designated at that time. Overzealous specimen collecting and unregulated hiker disturbance were the reasons for listing. At the time, the extent of the Monroe Flats population was shrinking (Graber and Brewer, 1985), and the Franconia Ridge population was thought to be extirpated.

We approved a recovery plan for *Potentilla robbinsiana* in 1983 and revised it in 1991 (U.S. Fish and Wildlife Service 1991). We began recovery activities in 1979, focusing on the only known population at Monroe Flats. Important features of the recovery efforts for this species included: construction of a scree wall; signs to alert the public to stay on the trail; Educational posters at the Lake-of-the-Clouds hut; monitoring the use of the Crawford Path; and trail relocation to avoid disturbance. We subsequently rediscovered the natural Franconia

Ridge population in June of 1984, which was represented by a single known plant.

Prior to listing, there had been a number of attempts to establish transplant populations at approximately 20 locations throughout the White Mountains (Graber, 1980). Although some of these efforts showed signs of initial success, all but one eventually failed due to unsuitable habitat or because patches of suitable habitat were too small to support viable populations. The Appalachian Mountain Club's Research Department reviewed these efforts, and, using the lessons learned, narrowed recovery efforts to four potential sites as outlined in the updated 1991 recovery plan: Two used in the previous transplant efforts (Camel Patch and the Viewing Garden) and two new ones (Boott's Spur and an additional Franconia Ridge population).

Of the transplant populations created prior to this species' listing, one continues to persist. Camel Patch received an unknown number of transplants by Raymond E. Gerber from the 1980s to 1991 (records unavailable). The Appalachian Mountain Club inventoried this site starting in 1984 when they located 84 plants. Only one of the transplant zones in this habitat showed viable natural reproduction occurring. This population was monitored annually from 1984 to 1992 and again in 1995, with annual monitoring beginning again in 1998. Supplementation of this population began in 1999 with 6 transplants, which boosted this population to 23 adults, 60 juveniles, and 6 new transplant adults. Since 1999, an additional 31 transplants were done, bringing the population to 40 adults and 57 juveniles. The Viewing Garden had received 19 known adult transplants from about 1980 through 1997. Though the adults survived for some time, viable natural reproduction was problematic and these individuals died out over time.

Transplant efforts to new locations began in 1986 with the introduction of 160 plants over three years at the Boott's Spur site. The site showed some initial promise, but by 1991 mortality was 100%. Although the Boott's Spur location was recognized as suboptimal habitat and had failed in a previous transplant effort, another 27 plants were transplanted in 1995, but none survived after the first year. The new Franconia population was established in 1988 with 61 plants transplanted over 2 years and an additional 108 plants through 1996, the date of the last transplant efforts. Like the natural populations, this transplant population has fluctuated over the years, but now appears well established with over 337 plants counted in 2001 and good natural recruitment occurring.

Summary of Federal Actions

Section 12 of the Endangered Species Act of 1973 directed the Secretary of the Smithsonian Institution to prepare a report, within 1 year after passage of the Act, on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Director of the Service published a notice in the **Federal Register** (40 FR 27823) of his acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. Comments on this proposal were summarized in the April 26, 1978, **Federal Register** publication of a final rule, which also determined 13 plants to be either endangered or threatened species (43 FR 17909). *Potentilla robbinsiana* was included in the Smithsonian's report, the July 1, 1975, notice of review, and the June 16, 1976, proposal.

The amendment of the Act in 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, we published a notice withdrawing the June 16, 1976, proposal to list *Potentilla robbinsiana* (44 FR 70796).

Based on sufficient new information, we again proposed *Potentilla robbinsiana* for listing on March 24, 1980, and proposed its critical habitat for the first time (45 FR 19004). A public meeting was held on this proposal on April 28, 1980, in Concord, New Hampshire. On September 17, 1980, we published a final rule in the **Federal Register** (45 FR 61944) listing *Potentilla robbinsiana* as endangered and designating critical habitat.

On June 8, 2001, we proposed to remove *Potentilla robbinsiana* from the List of Endangered and Threatened Plants because the available data indicate that this species has recently met the goals for delisting. In our **Federal Register** notice (66 FR 30860), we requested that all interested parties provide information and comments on the status of this species.

Summary of Current Status

As mentioned in the ''Background'' section, *Potentilla robbinsiana* is endemic to alpine areas of the White Mountain National Forest. The species is limited in its distribution as it occupies a unique habitat within the alpine zone that is very restricted geographically. There are currently four populations of the species; three are considered viable (over 50 plants), Monroe Flats, Camel Patch transplant site, and the Franconia Ridge transplant site. One site, the natural Franconia Ridge site has a very limited range of habitat. This population continues to sustain itself. However, we believe it will never reach the 50 plants needed to be considered viable due to limited suitable habitat.

Table 1 shows the Monroe Flats census counts of the species. Although counts were undertaken in 1973, 1983, and 1992, the methodology used to count the plants differed. The most reliable comparison between the three prior censuses and the most recent census (1999) is the number of plants found that were greater than 14 millimeters (mm) (0.5 in.) in stem diameter. Comparing the number of plants greater than 14 mm in diameter for censuses in 1983, 1992, and 1999 clearly demonstrates that the Monroe Flats population has dramatically increased.

TABLE 1.—MONROE FLATS CENSUS COUNTS FOR *Potentilla robbinsiana*

Year	Number of plants with stems greater than 14 mm (0.55 in) in diameter	Increase from previous count (percent)
1973	1,801	
1983	1,547	–14
1992	3,368	118
1999	4,575	36

Both the Camel Patch and Franconia Ridge transplant populations have persisted for more than 10 years. Both have juvenile recruitment and successful second generation seedling establishment. Transplant and/or monitoring efforts for these populations continue on a near annual basis (Kimball, 1998). The high level of soil movement throughout Camel Patch makes much of the site unsuitable for transplant efforts, nevertheless a population located along the edge of the encircling vegetation is well established. The Franconia Ridge population has increased dramatically in recent years and is now well established.

An 11-year demographic study, funded by the Service, the U.S. Forest Service, and Appalachian Mountain Club, was conducted along four permanent transects within the Monroe Flats population. The purpose of this study, in part, was to determine a minimum viable population for the transplant populations centered on the survival of each life stage of the plant at the Monroe Flats population. The study recommended a minimum viable population of 50 plants (Iszard-Crowley and Kimball, 1998). Both the Camel Patch location with a current population of 97 plants (Table 2) and the Franconia transplant location with a current population of 337 plants (Table 3) meet this criterion.

TABLE 2.—RESULTS OF THE 1999–2001 CENSUSES OF THE CAMEL PATCH TRANSPLANT POPULATION

Year	Seedling	Juvenile < 14mm	Juvenile ≥ 14mm	Adults	Total # plants ≥ 14mm	Total
1999	0	43	23	21	44	87
2000	0	42	30	29	59	101
2001	0	27	30	40	70	97

TABLE 3.—RESULTS OF THE 1999–2001 CENSUSES OF THE FRANCONIA TRANSPLANT POPULATION

Year	Seedling	Juvenile < 14mm	Juvenile ≥ 14mm	Adults	Total # plants ≥ 14mm	Total
1999	1	284[a]		46	N/A[a]	331
2000	0	172	58	77	135	307
2001	0	179	83	75	158	337

[a] Size class data unavailable.

***Potentilla robbinsiana* Recovery**

In accordance with section 4(f)(1) of the Act, the Service is responsible for the development and implementation of recovery plans for all listed species, to the maximum extent practicable. The first Robbins' Cinquefoil Recovery Plan was completed in 1983, and featured two main objectives: (1) To protect the existing Monroe Flats colony, encouraging its expansion to previously occupied habitat; and (2) to establish self-maintaining populations in at least four additional potential habitats not occupied at the time.

To accomplish the first objective, a scree wall surrounding the Monroe Flats population was constructed and posted with ''closed to entry'' signs, and two hiking trails that had previously traveled through the Monroe Flats population were relocated away from the population. Plants have since been successfully transplanted back into the habitat where the trails had resulted in the localized demise of the plants, primarily at the highest elevation in the Monroe Flats population. The ability of seed to move downhill from this recolonized site should benefit the Monroe Flats population. In addition, personnel from the White Mountain National Forest and Appalachian Mountain Club continue to provide stewardship, enforcement, and educational resources on site.

Several tasks were necessary to meet the second objective of establishing four additional self-maintaining transplant populations: (1) Protocols were developed to monitor the Monroe Flats population to better understand its demographic trends and natural rates of recruitment and mortality, and to collect data to model minimum viable population size; (2) the natural Franconia Ridge population (rediscovered in 1984) was annually monitored; (3) micro-habitat components were identified and used to locate unoccupied, potentially suitable habitat; and (4) effective propagation and transplant techniques were developed. Transplant techniques varied over the years. However, the most successful efforts used 2-year-old plants germinated from seed, and transplanted with the soil media intact in mid-June to early July. Each year a portion of the seed collected for use in transplants is placed in cold storage at the New England Wildflower Society to establish a seed bank for this species.

As mentioned in the ''Background'' section, two of the transplant sites failed, Boott's Spur and the Viewing Garden. The other two transplant sites, Franconia and Camel Patch, are both considered viable populations with 331 plants and 87 plants respectively, in 1999. As of 2001, these populations increased to 337 plants and 97 plants respectively.

The Robbins' Cinquefoil Recovery Plan: First Update, published in 1991, retained recovery criteria for the protection of existing natural populations and establishing additional transplant populations, but also contained minor changes to incorporate the rediscovered natural Franconia population, and acknowledged that suitable additional unoccupied habitat may be a limiting factor. In addition to the protection of the natural populations, this plan determined that a historically occupied zone within the Monroe Flats should be recolonized. Transplant efforts began in 1996 to meet this objective, and successful juvenile recruitment has since been observed.

To delist *Potentilla robbinsiana*, long-term demographic evidence must show that the Monroe Flats population is stable or increasing in size. As mentioned in the ''Summary of Current Status'' section, comparing the number of plants greater than 14 mm in stem diameter for censuses in 1983, 1992, and 1999 clearly demonstrates that the Monroe Flats population has dramatically increased.

While the 1991 recovery plan calls for the establishment of four transplant populations, it also recognizes that suitable habitat may be a limiting factor, and requires only two of the four transplant populations to be viable. Introduction of plants to the Boott's Spur location has subsequently been dropped due to the unsuccessful transplant efforts resulting in 100% mortality. The Viewing Garden location also showed 100% mortality in 1998. There are no plans to reestablish a population at this location because the suitable habitat is very limited and cannot support more than a few individual plants that are unlikely to

persist under natural population fluctuations. Biologists familiar with this species are confident that little if any suitable habitat in the White Mountains remains to be discovered (K. Kimball, Appalachian Mountain Club, pers. comm. 2000). Therefore, given that the discovery of additional suitable habitat for the establishment of new transplant attempts is unlikely, recent efforts have focused on ensuring viable populations at the two remaining transplant locations, Camel Patch and Franconia Ridge. As stated in the ''Summary of Current Status'' section, research on the species has determined that a minimum viable population consists of 50 plants (Iszard-Crowley and Kimball, 1998). Both the Franconia transplant location with a current population of 337 plants and the Camel Patch location with a current population of 97 plants meet this criterion.

Summary of Issues and Recommendations

In the June 8, 2001, proposed rule (66 FR 30860) we requested that all interested parties provide information and comments on the status of *Potentilla robbinsiana* and the proposal to delist this species. The public comment period ended August 7, 2001. Announcements of the proposed rule were sent to Federal and State agencies, elected officials, interested private organizations and citizens, and local area newspapers.

We received a total of two written comments, one from an individual and one from an organization. The organization (Appalachian Mountain Club) supports the delisting proposal, while the individual did not support it. Comments are discussed below. In addition, we considered and incorporated, as appropriate, into the final rule all biological and commercial information obtained through the public comment period.

Issue 1: Both commenters mention that the more appropriate common name for the species is dwarf cinquefoil.

Our response: We agree that the current common name is dwarf cinquefoil. Throughout this document we refer to the species by using the Latin name *Potentilla robbinsiana*. The exception being, when referencing the recovery plans, where the formal title of the plans refers to the species as Robbins' cinquefoil. We continue to use the common name of Robbins' cinquefoil for this species since that was the common name under which this species was associated at the time of listing.

Issue 2: One commenter recommends that all future population counts should be for total population, not transect counts as suggested in the proposed rule.

Our response: We agree that a total population census using a grid sampling methodology would provide more consistent comparisons over time. For the 5-year post-delisting monitoring, a total population census will be used. However, as explained in the ''Summary of Current Status'' section, the most reliable comparison between the 3 prior censuses and the most recent census (1999) is the number of plants found that were greater than 14 mm (0.5 in.) in stem diameter.

Issue 3: One commenter was concerned that the proposed rule does not technically satisfy some of the downlisting and delisting criteria contained in the updated recovery plan.

Our response: As mentioned in the proposed rule, the downlisting and delisting objectives in the 1991 recovery plan update were based on the best information available at that time. The recovery plan states ''that approved recovery plans are subject to modification as dictated by new findings, changes in species status, and the completion of recovery tasks.'' Each recovery objective from the 1991 plan is addressed in the ''*Potentilla robbinsiana Recovery*'' section of this rule. This section lays out the recovery actions that have led to the decision to delist the species, even though not every objective was met. In addition, we have determined that none of the five listing factors identified in the Act remain a threat to *Potentilla robbinsiana.* The objectives identified during the recovery planning process provide a guide for measuring the success of recovery, but are not intended to be absolute prerequisites, and should not preclude a reclassification or delisting action if such action is otherwise warranted.

Issue 4: One commenter was concerned that the Service did not seek the review and concurrence from the ad hoc recovery group for *Potentilla robbinsiana.*

Our response: The ad hoc recovery group first met shortly after the listing of the species in 1980. At that time and up until the present, this group was never a formalized recovery team with members appointed by the Regional Director. This group was consulted at one time, but the Service never asked for a consensus on any matters. This group has not met in over a decade. The Service did seek scientific review and comment from all interested stakeholders during our public comment period associated with the proposed rule.

Issue 5: One commenter was concerned that the Service did not complete tasks 5.3 and 7 in the original recovery plan of 1983, and task 5.1 of the updated plan, prior to publishing the proposed rule.

Our response: We disagree. Task 5.3 of the original plan, ''Develop news releases, articles and maintain contact with interested groups,'' was not included in the updated plan of 1991. Task 7 of the original plan and task 5.1 of the updated plan are essentially the same: ''submit an annual report on all conservation activities and research findings.'' The Appalachian Mountain Club has submitted annual *Potentialla robbinsiana* progress reports consistently since 1984 to both the Service and the White Mountain National Forest. Additional reports including several updates on germination and transplanting of the species and a demographic analysis of *Potentialla robbinsiana* were also supplied to the Service and the White Mountain National Forest.

Issue 6: One commenter asked if the proposed rule received approval of the recovery team or was peer-reviewed by conservation biologists.

Our response: There is no recovery team for this species. Instead, the Service submitted the proposed rule to three organizations: the White Mountain National Forest, the Appalachian Mountain Club, and the New England Wild Flower Society, for scientific review. Scientists associated with these organizations, who are knowledgeable about *Potentilla robbinsiana's* status and biology, reviewed the proposed rule. Only the Research Department of the Appalachian Mountain Club chose to provide a written endorsement of the proposed rule. The State of New Hampshire's Natural Heritage Program also received a copy of the proposed rule, and has been an active participant in the recovery planning and efforts for this species.

Issue 7: One commenter was concerned that the proposed rule did not provide indication of active protection efforts from off-trail hikers at the Camel Patch population or from rock climbers at the natural Franconia Ridge population.

Our response: Surveys have yielded no evidence of trespass or disturbance to these populations. We, together with the Appalachian Mountain Club, monitor the transplant populations and the Franconia Ridge natural population on a near annual basis. It is recommended by the Appalachian Mountain Club, and the Service concurs, that the best long-term management for these populations is to

manage them, but not to draw attention to them. Unlike the Monroe Flats population, these three populations are generally unknown and less accessible. Attempts to manage trespass using scree walls, signage, or other means, may call more attention to these discrete populations than the current low-key strategy.

Issue 8: One commenter noted that transplanted subpopulations at the Monroe Flats population are not necessarily viable.

Our response: We consider the Monroe Flats population to be one population and do not identify subpopulations. Task 4.5 of the updated recovery plan directs efforts to recolonize extirpated historical sites in the essential Monroe Flats habitat. Rather than ensuring additional viable subpopulations within Monroe Flats, the purpose of this task was to expand the population to its historical spatial extent where possible. Transplant efforts on Monroe Flats have focused in areas where plants had been extirpated due to trampling. Substrate directly along the now discontinued section of the Crawford Path has been heavily impacted and is no longer suitable habitat. However, impacts on either side of the discontinued trail have been less significant, and have been the focus of transplant efforts, including the high-point on Monroe Flats known as the ''Dome.'' This location may play an important role as seed source for downslope areas since seeds rarely migrate far from the parent plant. The past impact from substrate compression makes the habitat suitability and future status of this part of the transplant area uncertain. However, recent transplant survival has been strong, and there is seedling and juvenile recruitment in these areas, which meets the stated recovery task. Regardless of the potential for long-term reestablishment within the extirpated areas, these plants represent less than one percent of the Monroe Flats population and do not affect the viability of the Monroe Flats population.

Issue 9: One commenter was concerned with the statement that there is no suitable unoccupied habitat left for the species, and considers this as self-fulfilling and thus tautological.

Our response: As stated in the proposed rule under the ''Background'' section, prior to listing there had been a number of attempts to establish transplant populations at approximately 20 locations throughout the White Mountains. In 1986, with the experience gained from previous efforts, the four most appropriate transplant sites were determined, and efforts began. Of these four locations, two persist today. Given this species' unique habitat needs, the small geographic extent of such habitat, and the fact that transplanting efforts occurred at over 20 sites, we feel that locating additional suitable habitat for new transplant attempts is unlikely.

Issue 10: One commenter questioned why, if the Camel Patch population is deemed viable, we continue to supplement it.

Our Response: Seeds are collected annually from the Monroe Flats population and shipped to the New England Wild Flower Society for future germination and propagation. In the past, plants reared from these seeds were transplanted at the Camel Patch and Franconia transplant populations to help establish viable populations. They were also transplanted at the Monroe Flats population, and continue to be in an effort to reestablish adult plants at a topographic high spot so that they can act as an additional seed source for the main population at this site. Currently, the only plants that are transplanted at the Camel Patch population are extra plants intended for the Monroe Flats annual transplant effort. These plants are strategically placed to allow seed to flow downhill of the habitat in an effort to physically expand this population.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act, set forth the procedures for listing, reclassifying, and delisting species on the Federal lists. A species may be listed if one or more of the five factors described in section 4(a)(1) of the Act threatens the continued existence of the species. A species may be delisted according to 50 CFR 424.11(d), if the best scientific and commercial data available substantiate that the species is neither endangered nor threatened (1) because of extinction, (2) because of recovery, or (3) because the original data for classification of the species were in error.

After a thorough review of all available information, we determined that substantial *Potentilla robbinsiana* recovery has taken place since listing in 1980. We have also determined that none of the five factors identified in section 4(a)(1) of the Act, and discussed below, are currently affecting the species in such a way that the species is endangered (in danger of extinction throughout all or a significant portion of its range) nor threatened (likely to become endangered in the foreseeable future throughout all or a significant portion of its range). These factors and their application to *Potentilla robbinsiana* are as follows:

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

Potentilla robbinsiana utilizes a substrate described as shallow loamy sand topped with a stony, pavement-like surface. This stony surface layer protects the soil from being either blown or washed away. The 1980 final listing rule determined that the plant and its habitat were damaged by trampling from hikers. Hiking through the habitat is unimpeded due to the lack of most vegetation. Because the plants are small, it is easy for hiker boots to crush adult, juvenile, and seedling plants.

Since listing, the threat from trampling has been reduced by rerouting trails and protecting habitat. The section of the Appalachian Trail that bisected the Monroe Flats population is referred to locally as the Crawford Path, named after Abel Crawford who constructed the path in 1819. In 1915, the Appalachian Mountain club constructed Lake of the Clouds Hut, 270 m (295 yards (yd)) to the north of the trail. The Crawford Path was relocated at this time to bring the trail by the Hut, and although the trail was no longer directly bisecting *Potentilla robbinsiana* habitat, it still went through the northwest corner of the critical habitat. In 1983, the Crawford Path and Dry River Trails were rerouted a second time in response to the Federal listing, to move the trails outside of the plant's critical habitat. A low scree wall was constructed in conjunction with the trail relocation, around the critical habitat, and has been particularly effective in places where the trail abuts critical habitat. Signs posted around the Monroe Flats population notify hikers that there is a federally listed species present and no admittance is allowed without a permit. These signs are replaced as needed. Hiker traffic and trespassers into the critical habitat were recorded by pressure plates during 1985 to assess the effectiveness of hiker management. The plates were operated from June through October 1985 and checked several times weekly. Of 4,286 hikers counted over 115 days the counters were functional, the trespass rate was 2 percent (Kimball and Paul, 1986). The target compliance level established by the 1983 recovery plan was 95 percent of the hikers not trespassing into the critical habitat, an objective that has been maintained or exceeded since 1981. Outreach has also been a strong recovery component for ensuring hiker compliance of no trespassing into the *Potentilla robbinsiana* habitat. A naturalist is

stationed at the Lake of the Clouds Hut throughout the summer. The Hut naturalist is available during the day to answer questions and give interpretive talks regarding *Potentilla robbinsiana.* The naturalist and other Hut staff are also instrumental in monitoring the Monroe Flats population for human disturbance.

In 1973, prior to listing, the Monroe Flats population contained approximately 1,801 individual plants larger than 14 mm (0.55 in). As of 1999, this population included approximately 4,575 individuals of similar size. This represents a greater than 250% increase in this population. Counting plants of all sizes (seedlings to adults) in 1999, the established population size was 14,195 individuals.

The second natural population is near the Appalachian Trail on Franconia Ridge. The locations of this population and the two transplant populations have been purposefully kept undisclosed and are presently out of the way of the average hiking public. Attempts to manage trespass using scree walls, signage, or otherwise, may call more attention to this population than the current low-key strategy.

Records indicate that the extant natural Franconia Ridge population was never very large. Nevertheless, it is considered to be a reproducing population, with 11 individual plants consisting of 3 adults and 8 juveniles as of 2001, and is being monitored regularly by the Appalachian Mountain Club.

The protection efforts in effect for the Monroe Flats population, the existence of two viable transplant populations, and the strategy to manage these two populations and the natural Franconia Ridge population, demonstrate that there is no longer a threat to the habitat of *Potentilla robbinsiana.*

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

The 1980 final listing identified that the collecting of specimens for herbaria probably contributed to the loss of *Potentilla robbinsiana* and possibly the cause for the extirpation of one of the Franconia sites (Steele, 1964). It was noted that over 40 herbarium sheets containing nearly 100 plants (6 percent of the known mature population at the time of listing) were counted in various New England herbaria (Graber, 1980). Cogbill's more recent paper (1993) documents the collection of over 850 plants in herbaria collections worldwide, which represents one of the most extensive collections known for a single species. In the late 1800s some collectors were selling alpine plants, specifically including *Potentilla robbinsiana,* to other collectors for 10 cents per sheet (Cogbill, 1993). However, commercial trade in the species has not occurred since the early 1900s and is not expected to occur in the future; import or export of this species also is not anticipated. Collection of material for herbaria has declined significantly due to scientists becoming more aware of the impacts of collecting on rare species. Monitoring of these sites does not indicate a problem with overcollection. Therefore, taking of *Potentilla robbinsiana* for these purposes is not considered to be a threat.

C. Disease and Predation

This species is not known to be threatened by disease or predation.

D. The Inadequacy of Existing Regulatory Mechanisms

Potentilla robbinsiana is currently afforded limited protection by the Endangered Species Act. Section 9 of the Act prohibits the removal and possession of endangered plants from lands under Federal jurisdiction and the malicious damage and destruction of endangered plants in such areas, and the damage or destruction of endangered plants from any other area in knowing violation of any State law or regulation, or in the course of a violation of State criminal trespass law. Section 7 of the Act requires Federal agencies to ensure that their actions do not jeopardize the continued existence of listed species or destroy or adversely modify designated critical habitat.

Section 7(a)(1) of the Act requires Federal agencies to carry out programs for the conservation of threatened and endangered species. The entire range of *Potentilla robbinsiana* occurs on Forest Service lands. Forest Service regulations prohibit removing, destroying, or damaging any plant that is classified as a threatened, endangered, rare or unique species (36 CFR 261.9). Currently the species is classified as a G1 species (critically imperiled because of extreme rarity) by the State of New Hampshire's Natural Heritage Program, and appears on the Forest Service's Region 9 (Northeast) list of ''species of concern.'' These rankings will not change once the species is delisted, thus the Forest Service regulations will remain in effect. On December 2, 1994, we and the Forest Service's White Mountain National Forest signed a Memorandum of Understanding (MOU) for the conservation of *Potentilla robbinsiana.* The MOU states that the Forest Service agrees to carry out specific management measures, with our assistance, both through the recovery period, and if and when *Potentilla robbinsiana* is removed from the list of endangered and threatened plants.

Potentilla robbinsiana does appear on the New Hampshire State list of endangered and threatened species, although State legislation currently offers it no protection. However, since this species is endemic to Federal lands administered by the White Mountain National Forest, which has committed to continuing its ongoing program to provide for the long-term conservation of this species, we have determined that there is adequate existing protection in place for this species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Recovery efforts have been directed toward protection and environmental education. A number of approaches have been used to educate the hiking community, the scientific community, and the public about *Potentilla robbinsiana*. Providing information to the public regarding the species' biology and management satisfies their curiosity and increases their willingness to participate in protection of this species. These efforts include a permanent display and presentations about *Potentilla robbinsiana* by the seasonal Appalachian Mountain Club naturalist at Lake of the Clouds Hut.

The 1980 final listing rule mentioned that *Potentilla robbinsiana* is vulnerable to the harsh climate in which it lives. The weather regime experienced by the species is highly variable from year to year. During demographic studies over the past 16 years, it has been observed that late frosts in June have the potential to damage flowers and greatly reduce the seed crop for that year. By virtue of a deep taproot, the species appears to be adapted to a moderate level of frost-heaving, a stress that may limit competing species. At the same time, it cannot tolerate frost-induced movement of more than 18 mm/yr (.71 in/yr), or frost action sufficient to produce stone stripes or other patterned ground (Cogbill, 1987). Overall, however, this species is now thriving in a very localized part of the alpine zone of the White Mountains, and adapts to the harsh climate conditions, where few other species survive.

In summary, we have carefully reviewed all available scientific and commercial data and conclude that the threats that caused the population of *Potentilla robbinsiana* to decline no longer pose a risk to the continued survival of the species. This determination is based on the best

available data indicating that *Potentilla robbinsiana* has recovered, primarily as a result of the following: (1) The two natural existing populations are protected from human disturbance, and the Monroe Flats population is considered viable and increasing; (2) the two transplant populations are considered viable; and (3) the Forest Service's commitment to continue ongoing programs to provide for the long-term conservation of this species regardless of its standing under the Endangered Species Act. This recovery indicates that the species is no longer endangered or likely to become endangered in the foreseeable future throughout all or a significant portion of its range. Therefore, the species no longer meets the Act's definitions of endangered or threatened. Under these circumstances, removal from the List of Endangered and Threatened Plants is appropriate.

Effects of This Rule

This final rule will remove the protections afforded to *Potentilla robbinsiana* under the Act. Furthermore, the critical habitat for this plant, one location in the White Mountain National Forest, New Hampshire (50 CFR 17.96(a)), will be removed. The prohibitions and conservation measures provided by the Act will no longer apply to this species. Therefore, taking, interstate commerce, import, and export of *Potentilla robbinsiana* will no longer be prohibited under the Act. In addition, Federal agencies will no longer be required to consult with us under section 7 of the Act to insure that any action they authorize, fund, or carry out, is not likely to jeopardize the continued existence of *Potentilla robbinsiana* or destroy or adversely modify designated critical habitat.

The take and use of *Potentilla robbinsiana* must comply with appropriate Forest Service regulations, since the entire population lies within the White Mountain National Forest in New Hampshire.

Future Conservation Measures

Section 4(g)(1) of the Act requires that the Secretary of the Interior, through the Service, implement a monitoring program in cooperation with the States for not less than 5 years for all species that have been recovered and delisted. The purpose of this requirement is to develop a program that detects the failure of any delisted species to sustain itself without the protective measures provided by the Act. If at any time during the 5-year monitoring program, data indicate that protective status under the Act should be reinstated, we can initiate listing procedures, including, if appropriate, emergency listing.

Monitoring

Our Northeast Region will coordinate with the Forest Service, the Appalachian Mountain Club, and State resource agencies to implement an effective 5-year monitoring program to track the population status of *Potentilla robbinsiana*. We will annually evaluate the effectiveness of ongoing conservation programs, including education, monitoring, and enforcement efforts, in order to detect and assess any new threats to the populations. To detect any changes in the status of *Potentilla robbinsiana*, we will use, to the fullest extent possible, information routinely collected by the Appalachian Mountain Club's Research Department and the Forest Service. During the fifth year of the 5-year monitoring period, a total population census of the Monroe Flats population will be conducted using a grid to further evaluate the stability and health of this population.

We believe that the two transplanted sites have reached viable population status. However, during the required 5-year monitoring period, transplanting at the Camel Patch site will continue when excess plants are available from the New England Wild Flower Society. The transplants will be used to fill sparse areas and expand the population.

If we determine at the end of the mandatory 5-year monitoring period, which shall include data from the fifth year population census of Monroe Flats, that recovery is complete, and factors that led to the listing of *Potentilla robbinsiana*, or any new factors, remain sufficiently reduced or eliminated, monitoring may be reduced or terminated. If data show that the species is declining or if one or more factors that have the potential to cause a decline are identified, we will continue monitoring beyond the 5-year period and may modify the monitoring program based on an evaluation of the results of the initial 5-year monitoring program, or reinitiate listing if necessary.

Executive Order 12866

This rule was not reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Paperwork Reduction Act

The OMB regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act, require Federal agencies to obtain approval from OMB before collecting information from the public. The OMB regulations at 5 CFR 1320.3(c) define a collection of information as the obtaining of information by or for an agency by means of identical questions proposed to, or identical reporting, record keeping, or disclosure requirements imposed on, 10 or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that ''ten or more persons'' refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For purposes of this definition, employees of the Federal Government are not included.

This rule does not include any collection of information that requires approval by OMB under the Paperwork Reduction Act. *Potentilla robbinsiana* occurs entirely on lands administered by the Forest Service and only in one State, New Hampshire. The information needed to monitor the status of *Potentilla robbinsiana* following delisting will be collected primarily by a limited number of personnel from the Forest Service and the Appalachian Mountain Club. We do not anticipate a need to request data or other information from 10 or more persons during any 12-month period to satisfy monitoring information needs. If it becomes necessary to collect information from 10 or more non-Federal individuals, groups, or organizations per year, we will first obtain information collection approval from OMB.

National Environmental Policy Act

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

References Cited

A complete list of all references cited herein is available upon request from our Northeast Regional Office (see **ADDRESSES** section).

Author

The primary author of this rule is Diane Lynch, Endangered Species Biologist (see **ADDRESSES** section). Doug Weihrauch, staff scientist for the Appalachian Mountain Club Research Department, provided assistance with the summary of the biological record for this species.

List of Subjects in 50 CFR Part 17

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

Regulations Promulgation

For the reasons set out in the preamble, we hereby 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.

§ 17.12 [Amended]

2. Section 17.12(h) is amended by removing the entry for ''*Potentilla robbinsiana*, Robbins' cinquefoil'' under ''FLOWERING PLANTS'' from the List of Endangered and Threatened Plants.

§ 17.96 [Amended]

3. Section 17.96(a) is amended by removing the critical habitat entry for ''*Potentilla robbinsiana*, Robbins' cinquefoil,'' which is under Family Rosaceae.

Dated: June 26, 2002.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 02–21704 Filed 8–26–02; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 67, No. 166
Tuesday, August 27, 2002

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 330

[Docket No. 02–011–2]

Redelivery of Cargo for Inspection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for our proposed rule amending the regulations pertaining to cargo entering the United States. The proposed rule would provide that inspectors from the Animal and Plant Health Inspection Service (APHIS) may require that cargo that has entered the United States and been moved from the port of first arrival prior to inspection by an APHIS inspector be returned to the port of first arrival or, if convenient, another location, as specified by APHIS, for inspection when necessary. This action will allow interested persons additional time to prepare and submit comments.

DATES: We will consider all comments that we receive on or before September 16, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–011–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–011–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–011–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html*.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela Byrne, Senior Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 147, Riverdale, MD 20737–1231; (301) 734–5242.

SUPPLEMENTARY INFORMATION:

Background

On June 20, 2002, we published in the **Federal Register** (67 FR 41868–41869, Docket No. 02–011–1) a proposal to amend the regulations pertaining to inspection of cargo entering the United States. The proposed rule would provide that inspectors from the Animal and Plant Health Inspection Service (APHIS) may require that cargo that has been moved from the port of first arrival prior to inspection by APHIS be returned to the port of first arrival or, if convenient, another location, as specified by APHIS, for inspection when necessary.

Comments on the proposed rule were required to be received on or before August 19, 2002. We are reopening and extending the comment period on Docket No. 02–011–1 for an additional 30 days ending September 16, 2002. This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 450, 2260, 7711, 7712, 7714, 7718, 7731, 7734, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 20th day of August, 2002.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–21738 Filed 8–26–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 02–ASO–18]

Proposed Amendment of Class D Airspace; Titusville, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class D airspace at Titusville, FL. Daytona Beach Approach Control is the controlling air traffic control facility for Instrument Flight Rules (IFR) operations at Spacecoast Regional Airport, FL. Due to the high volume of Visual Flight Rules (VFR) traffic overflying the Spacecoast Regional Airport at low altitudes, Daytona Beach Approach Control has requested the Titusville, FL Class D airspace be lowered from 2,500 feet MSL to 1,900 feet MSL.

DATES: Comments must be received on or before September 26, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 02–ASO–18, Manager, Airspace Branch, ASO–520, PO Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Walter R. Cochran, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, PO Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5586.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views

or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 02–ASO–18.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taken action on the proposed rule. The proposal contained in this action may be changed in light of the comments received. All commenters submitted will be available to examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, PO Box 20636, Atlanta, Georgia 30320. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing lists for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class D airspace at Titusville, VL. Class D airspace designations for airspace areas extending upward from the surface of the earth are published in Paragraph 5000 of FAA Order 7400.9J, dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ASO FL D Titusville, FL [REVISED]

Spacecoast Regional Airport, FL
(Lat. 28°30′53″ N, long, 80°47′57″ W)

That airspace extending upward from the surface to and including 1,900 feet MSL within a 4-mile radius of Space Coast Regional Airport; excluding the portion within Restricted Area R–2934 when it is effective. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on August 16, 2002.

Walter R. Cochran,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 02–21786 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AWP–15]

Proposed Modification of Class E Airspace; Needles Airport, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify the Class E airspace area at Needles Airport, CA. The establishment of an Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 29 at Needles Airport, CA has made this proposal necessary. Additional controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing the RNAV (GPS) RWY 29 SIAP to Needles Airport, CA. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Needles Airport, Needles, CA.

EFFECTIVE DATE: Comments must be received on or before October 11, 2002.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP–520, Docket No. 01–AWP–15, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California, 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Jeri Carson, Air Traffic Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region,

Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6611.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with the comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AWP–15.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90261, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, 15000 Aviation Boulevard, Lawndale, California 90261. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 by modifying the Class E airspace area at Needles Airport, CA. The establishment of a RNAV (GPS) RWY 29 SIAP at Needles Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface is needed to contain aircraft executing the RNAV (GPS) RWY 29 SIAP to Needles Airport. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the RNAV (GPS) RWY 29 SIAP to Needles Airport, Needles, CA. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9J dated August 31, 2001, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in this Order.

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

List of Subjects in 14 CFR Part 97

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9J, Airspace Designations and Reporting Points, dated August 31, 2001, and effective September 16, 2001, is amended as follows:

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

* * * * *

AWP CA E5 Needles Airport, CA [REVISED]

Needles Airport, CA
(Lat. 34°45′58″ N., long. 114°37′24″ W.)
Needles VORTAC
(Lat. 34°45′58″ N., long. 114°28′27″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6–mile radius of the Needles Airport; and that airspace extending upward from 1,200 feet above the surface within 7.8 miles south and 11.3 miles north of the Needles VORTAC 092° and 272° radials, extending from 9.6 miles west to 20.9 miles east of the Needles VORTAC.

* * * * *

Issued in Los Angeles, California, on June 3, 2002.

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 02–21137 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 413, 415, and 417

[Docket No. FAA–2002–7953; Notice No. 02–12]

RIN 2120–AG37

Licensing and Safety Requirements for Launch

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; additional information.

SUMMARY: The FAA is adding information to the supplemental notice of proposed rulemaking (SNPRM) published on July 30, 2002. The information relates to the public meeting procedures described in the SNPRM. This document provides a telephone number for interested parties who wish to participate in the public meeting via telephone.

DATES: The FAA will host a public meeting on September 6, 2002, from 8:30 a.m. to 4 p.m.

ADDRESSES: The public meeting will take place at 800 Independence Avenue, SW., Washington, DC. Anyone wishing to participate in the public meeting via telephone should call (202) 493–2248, with no pass code required.

FOR FURTHER INFORMATION CONTACT: Brenda Parker, (202) 385–4713.

SUPPLEMENTARY INFORMATION: On July 30, 2002, the FAA published a supplemental notice of proposed rulemaking (SNPRM) to amend an earlier proposal to amend the commercial space transportation regulations governing licensing and safety requirements for launch (67 FR 49456). In that SNPRM, we described procedures for a public meeting we will hold at the FAA headquarters building. See the **DATES** and **ADDRESSES** sections of this notice for the time and location of the meeting. We are not changing the date and location of the public meeting.

In this document, we are adding a telephone number that interested parties may call to participate in the meeting via telephone. It is not necessary for a person who wishes to participate in the meeting to be physically present at the FAA headquarters in Washington, DC. A person may call (202) 493–2248 to listen to the proceedings or to participate by asking a question or making a statement. No pass code or other number is required. Interested parties should note that this is not a toll-free number.

Issued in Washington, DC, on August 21, 2002.

Anthony F. Fazio,

Director, Office of Rulemaking.

[FR Doc. 02–21779 Filed 8–22–02; 3:57 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPATS No. OK–028–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: OSM is announcing receipt of revisions to a previously proposed amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The revisions concern employment and financial interests of state employees and members of advisory boards and commissions. It also concerns corrections of cross-references and typographical errors. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations.

DATES: We will accept written comments until 4 p.m., c.d.t., September 11, 2002.

ADDRESSES: You should mail or hand deliver written comments to Michael C. Wolfrom, Director, Tulsa Field Office at the address listed below.

You may review copies of the Oklahoma program, the amendment and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430.

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521–3859.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: *mwolfrom@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a state law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 19, 1981, **Federal Register** (46 FR 4902). You can find later actions concerning the Oklahoma program at 30 CFR 936.15 and 936.16.

II. Discussion of the Proposed Amendment

By letter dated November 1, 2001 (Administrative Record No. OK–993), Oklahoma sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Oklahoma sent the amendment at its own initiative. We announced receipt of the proposed amendment in the December 11, 2001, **Federal Register** (66 FR 63968) and invited public comment on its adequacy. The public comment period ended January 10, 2002.

During our review of the amendment, we identified concerns relating to employment and financial interests of state employees and members of advisory boards and commissions, incorrect cross-references, and typographical errors. We notified Oklahoma of the concerns by letter dated March 25, 2002 (Administrative Record No. OK–993.04). On July 3, 2002, Oklahoma sent us a revised amendment (Administrative Record No. OK–993.05).

Oklahoma submitted revisions for the following provisions of the amendment.

A. Section 460.20–5–4. Responsibility

1. In paragraph (a)(8), Oklahoma proposes to add a provision to require the Financial Officer of the State Department of Mines to inform members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests about who they can contact for advice and counseling related to filing the statement of employment and financial interests.

2. Oklahoma proposes to revise paragraph (b)(2) to read as follows:

(2) Promptly review the statements to determine if employment and financial interests which constitute a direct or indirect financial interest in underground or surface coal mining operations have been identified correctly;

3. Oklahoma proposes to retain existing paragraph (c) that requires members of advisory boards and commissions who perform functions or duties under the Act to recuse themselves from proceedings that may affect their direct or indirect financial interest. Previously, Oklahoma proposed to delete this paragraph.

B. Section 460.20–5–6. Penalties

Oklahoma proposes to revise paragraph (a) pertaining to criminal penalties and paragraph (b) pertaining to regulatory penalties so that these penalties also apply to advisory board members and commissioners.

C. Section 460.20–5–7. Who Shall File

Oklahoma proposes to revise the fourth sentence in paragraph (b) to read as follows:

In those cases, the Director shall list the title of boards, offices, bureaus, or divisions

within the Department of Mines which do not perform any functions or duties under the Act and list the positions not performing functions or duties under the Act for only those boards, offices, bureaus, or divisions that do have some employees performing functions or duties under the Act.

D. Section 460.20–5–10. What To Report

1. Oklahoma proposes to revise paragraph (c)(3) to read as follows:

(3) The exceptions shown in the certification portion of the form must provide enough information for the Director of the Department, for employees, or the Governor's Office, Director of Appointments, for advisory board or Commission members, to determine the existence of a direct or indirect financial interest. Accordingly, the exceptions should:

2. Oklahoma proposes to revise paragraph (c)(4) to read as follows:

(4) Employees, advisory board members, and commissioners are cautioned to give serious consideration to their direct and indirect financial interests before signing the statement of certification. * * *

E. Section 460.20–15–6. Review of Permit Applications

Oklahoma proposes to revise paragraph (b)(5)(C) to read as follows:

(C) Was not identified in the permit application.

F. Correction of Cross-References and Typographical Errors

Oklahoma proposes to correct incorrect cross-references and typographical errors in Section 460:20–3–5. Definitions, Section 462:20–5–10. What to report, and Section 460:20–45–46. Revegetation: standards for success.

III. Public Comment Procedures

We are reopening the comment period on the proposed Oklahoma program amendment to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Oklahoma program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 15-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (*see* **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. OK–028–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (*see* **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the

Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 26, 2002.

Ervin J. Barchenger,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 02–21743 Filed 8–26–02; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 167

[USCG–2002–12702]

RIN 2115–AG45

Traffic Separation Schemes: In the Strait of Juan de Fuca and Its Approaches; in Puget Sound and Its Approaches; and in Haro Strait, Boundary Pass, and the Strait of Georgia

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the existing traffic separation schemes (TSSs) in the Strait of Juan de Fuca and its approaches, in Puget Sound and its approaches, and in Haro Strait, Boundary Pass, and the Strait of Georgia. The proposed amendments have been approved by the International Maritime Organization and have been validated by a recent Port Access Route Study. Implementing these amendments would provide better routing order and predictability, increase maritime safety, and reduce the potential for collisions, groundings, and hazardous cargo spills. This rulemaking would incorporate these TSSs, as amended, into the Code of Federal Regulations.

DATES: Comments and related material must reach the Docket Management Facility on or before October 28, 2002.

ADDRESSES: To make sure that your comments and related material are not entered more than once in the docket, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (USCG 2002–12702), U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001.

(2) By delivery to room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(3) By fax to the Docket Management Facility at 202–493–2251.

(4) Electronically through the Web Site for the Docket Management System at *http://dms.dot.gov.*

The Docket Management Facility maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Lieutenant Commander Jane C. Wong, Thirteenth Coast Guard District, Seattle, WA, telephone 206–220–7224, e-mail *Jwong@PACNORWEST.uscg.mil;* or George Detweiler, Coast Guard, Office of Vessel Traffic Management (G–MWV), at 202–267–0574, e-mail *Gdetweiler@comdt.uscg.mil.* If you have questions on viewing or submitting material to the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (USCG–2002–12702), indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by mail, hand delivery, fax, or electronic means to the Docket Management Facility at the address under **ADDRESSES;** but please submit your comments and material by only one means. If you submit them by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

Under the Ports and Waterways Safety Act (33 U.S.C. 1221–1232) (PWSA), the

Coast Guard establishes traffic separation schemes (TSSs), where necessary, to provide safe access routes for vessels proceeding to or from U.S. ports. Before implementing new TSSs or modifying existing ones, we conduct a Port Access Route Study (PARS). Through the PARS process, we consulted with affected parties to reconcile the need for safe access routes with the need to accommodate other reasonable uses of the waterway, such as oil and gas exploration, deepwater port construction, establishment of marine sanctuaries, and recreational and commercial fishing. If a PARS recommends a new or modified TSS, we must initiate a rulemaking to implement the TSS. Once a TSS is established, the right of navigation is considered paramount within the TSS.

Approximately 11,000 vessels of greater than 300 gross tons (GT) moved through the Strait of Juan de Fuca in 1999. It is anticipated that this number will increase to approximately 17,000 by the year 2025. In the PARS, it was estimated that approximately 15.1 billion gallons of crude oil, refined products, and bunker fuel oil would be moved through the Strait in 2000. By 2025, the volume is expected to increase to approximately 19.2 billion gallons. About 7.6 billion gallons of this total volume will be crude oil imported to refineries in the Puget Sound area. Additional crude oil is exported from Canada's Port of Vancouver and 2.8 billion gallons of refined products will be exported from Puget Sound.

Other indicators of increasing maritime activity in the area include the following:

1. Expansion of the Port of Vancouver's Delta Port, just north of the international border on the Strait of Georgia in British Columbia. Some experts in the field predict that this facility will become one of the foremost container terminals on the west coast.

2. The proposed gateway terminal near Cherry Point on the Strait of Georgia in Washington State. When constructed, it will create an opportunity for increased vessel transits in the Strait of Georgia.

3. Potential Pacific-Rim trade expansion resulting from China receiving most favored nation trading status. Pacific Northwest ports are closer to the Orient via great-circle routing than are other U.S mainland ports.

The 1999 Marine Cargo Forecast by the Washington Public Ports Association's projected that the total waterborne tonnage through Puget Sound ports will increase by 42 per cent to nearly 121.6 million tons in 2020, compared with 85.6 million tons in 1997. The report further projected that the total container traffic through the Puget Sound ports of Seattle and Tacoma is expected to grow by 131 per cent, from 2.6 million TEUs (twenty-foot equivalent units) in 1997 to 6 million TEUs in 2020.

Other vessel traffic indicators pertaining to the study area suggest that the greater Puget Sound area constitutes the third largest naval port complex in the United States and supports one of the nation's highest per capita recreational boat ownership populations.

Existing TSSs. There are internationally approved TSSs in the Strait of Juan de Fuca and its approaches and in Puget Sound and its approaches. The TSSs in the Strait of Juan de Fuca and its approaches were adopted by the International Maritime Organization (IMO) on April 3, 1981, and implemented on January 1, 1982. The TSSs in Puget Sound and its approaches were adopted by IMO in December 1992 and implemented on June 10, 1993. These TSSs are reflected on NOAA chart 18400 and in ''Ships Routeing,'' Seventh Edition 1999, International Maritime Organization.

Port Access Route Study (PARS). We published a notice of study in the **Federal Register** on January 20, 1999 (64 FR 3145). The study was to review and evaluate the need for modifications to current vessel routing and traffic management measures for the Strait of Juan de Fuca, Haro Strait, Boundary Pass, the Strait of Georgia, Rosario Strait, and adjacent waters. The study area also included both U.S. and Canadian TSSs and the Area to be Avoided (ATBA) ''Off the Washington Coast''. United States and Canadian Coast Guards manage portions of the study area jointly. Joint waterway management is accomplished primarily through the Cooperative Vessel Traffic System (CVTS). Under the CVTS Agreement, vessel traffic transiting the study area is managed by vessel traffic centers located at Tofino and Victoria, British Columbia, Canada, and Seattle, Washington, irrespective of the boundary between the two countries.

The PARS was developed based on several related vessel traffic studies, Waterways Analysis and Management System (WAMS) reports, and extensive consultations between the governments of the United States and Canada. In addition, the officials of both governments embarked on a vigorous outreach program to present recommended changes in the study area and request commentary from a wide group of waterway users and other potentially affected and interested groups. These included members of the public, such as representatives of the shipping industry, master mariners, ports, pilots, environmental interests, and U.S. Federal, State, local, and tribal governments. The concerns raised were taken into account, including the costs and benefits to industry and the environment. The recommended changes also took into account the burden on, and the practical navigation aspects for, the shipping industry. We published the study results in the **Federal Register** on January 22, 2001 (66 FR 6514).

The PARS concluded that the current TSSs should be modified by—

1. Reconfiguring and extending seaward the TSS at the entrance to the Strait of Juan de Fuca;

2. Modifying the location, orientation, and dimensions of the Strait of Juan de Fuca TSS;

3. Relocating the Pilot Area and reconfiguring the traffic lanes and precautionary area off Port Angeles, Washington, to improve traffic flow and reduce risks;

4. Moving the vessel traffic lanes southeast of Victoria, British Columbia, farther off shore;

5. Establishing precautionary areas off of Discovery Island and around the Victoria Pilot Station;

6. Creating a new two-way route in Haro Strait and Boundary Pass and establishing a precautionary area off of Turn Point;

7. Expanding precautionary area ''RB'' at the south end of Rosario Strait;

8. Revising and aligning the existing TSS in Georgia Strait with the existing TSS north of Rosario Strait and linking them with a new precautionary area off of East Point; and

9. Creating a new precautionary area in Georgia Strait west of Delta Port and the Tsawwassen Ferry terminal.

Discussion of Proposed Rule

This rulemaking would amend the existing TSSs in the Strait of Juan de Fuca and its approaches; in Puget Sound and its approaches; and in Haro Strait, Boundary Pass, and the Strait of Georgia. The existing TSSs are delineated in ''Ships Routeing,'' Seventh Edition 1999, International Maritime Organization, but not yet codified in the Code of Federal Regulations (CFR). The amendments are based on the recommendations of the PARS study published in the **Federal Register** on January 22, 2001 (66 FR 6514). We propose the following changes to the existing TSSs:

1. *Reconfiguring and extending seaward the TSS at the entrance to the Strait of Juan de Fuca.* All traffic

entering the Strait of Juan de Fuca is presently funneled into the Strait through one of two short traffic lanes. The inbound traffic lane originating from the southwest may bring traffic within 1 mile of Duntze Rock. This convergence near Buoy Juliet is close to the rocky shoreline of Cape Flattery, lies within the Olympic Coast National Marine Sanctuary, and funnels inbound southern traffic along the northern and western borders of an existing Area To Be Avoided (ATBA).

It is customary for a large percentage of the slower moving traffic, often tugs and barges and small fishing vessels, to transit inbound and outbound south of the designated traffic lanes when on coastwise voyages to and from the south. This practice eliminates the need for slower moving southbound traffic to cross the traffic lanes and the numerous overtaking situations arising from disparate transit speeds. However, under the present configuration, this traffic is forced to transit extremely close to Duntze Rock and may end up infringing on either the ATBA or the inbound traffic lane.

Traditional commercial and sports fishing areas are in and adjacent to the traffic lanes at the entrance to the Strait. Occasionally, fishing vessels in the area create a conflict for vessels following the TSS, particularly during periods of reduced visibility.

This rulemaking would extend the TSS at the entrance of the Strait of Juan de Fuca approximately 10 miles farther offshore and would center the separation zone on the international border at the entrance. Both of these actions would create a ''buffer zone'' between the southernmost TSS lane and Duntze Rock and the nearby ATBA. This relocation provides significant sea room for resolving conflicting routes as vessels converge toward the entrance of the Strait, thereby improving order and predictability for all entry and exit lanes. These changes, along with changes being proposed for the ATBA boundary, would allow sufficient room for slower moving vessels to transit without conflicting with inbound traffic steering for the southern approach to the TSS. It would also provide a greater margin of safety around the hazards of Duntze Rock and Tatoosh Island. Finally, it would create the space necessary to accommodate the recommended routes proposed to IMO.

In developing these proposed changes to the TSS, we considered the location of the traditional fishing grounds off the entrance to the Strait of Juan de Fuca. Although it was not possible to completely segregate the TSS from the fishing grounds, the recommended changes would minimize potential conflicts and improve the existing configuration. These recommendations would provide routing order and predictability farther offshore, thereby reducing conflicts between vessels following the TSS and vessels fishing at the entrance to the Strait.

2. *Modifying the location, orientation, and dimensions of the existing TSS in the Strait of Juan de Fuca.* In its current configuration, over two-thirds of the TSS is located on the United States side of the International Boundary. The separation zone flares to a maximum width of approximately four nautical miles, of which three nautical miles are in U.S. waters. This alignment of the TSS reduces the amount of navigable water available to vessels transiting, outbound or inbound, south of the TSS and places inbound traffic following the lanes closer to land than vessels transiting in the outbound lanes.

In the western segment of the TSS, the proposed rule would shift the TSS a half-mile to the north and reduce the width of the entire separation zone to a maximum of 3 nautical miles. The minimum width of the separation zone and the width of the traffic lanes would remain one nautical mile. Doing so would reduce the potential for powered groundings on the U.S. shoreline by creating a larger buffer between the TSS and shore. It also would create additional space for the existing in-shore traffic that transits south of the TSS and would accommodate the recommended routes proposed to IMO.

We have considered the impact of the proposed changes on the existing Canadian Practice Firing Range (Exercise Area WH). Exercises will continue to be conducted in a manner not to conflict with commercial traffic following the TSS.

3. *Relocating the Pilot Area and reconfiguring the traffic lanes and precautionary area off Port Angeles to improve traffic flow and reduce risks.* Five TSSs converge at the precautionary areas (''PA'' and ''ND'') located to the north and east of Port Angeles. Ferries, recreational vessels, piloted deep draft vessels, non-piloted deep draft vessels, tugs and tows, naval vessels, and large and small commercial fishing vessels all interact and compete for space at this convergence point in the traffic scheme. The present traffic configuration was designed primarily to deliver inbound vessels to the pilot stations located at Port Angeles and Victoria. The impact on vessel safety or other waterway users may have been overshadowed. For example, the present configuration does not separate the Port Angeles pilots boarding area from either the through traffic following the TSS or the traffic choosing to follow the informal inshore traffic lanes. The current TSS routing leading to the Port Angeles pilot station has been identified through casualty histories as a substantial cause for concern. Vessels bound for the Port Angeles pilots station are required by the TSS to steer almost directly on Ediz Hook. To pick up a pilot, a vessel must first execute a 60-degree turn, then slow to varying speeds, which creates different impacts on steerage. At this point, a vessel may be particularly vulnerable to currents and seas. If an engineering failure occurred during this operation, the vessel would be at risk of a drift or powered grounding on Ediz Hook. By changing the traffic lane leading to the pilot station and by relocating the station itself, the need for an incoming deep draft vessel to steer directly toward shoal water as it approaches the pilot station would be eliminated. The addition of a new east/west TSS leading east from precautionary area ''PA'' establishes a predictable route for those vessels that do not require pilotage thus reducing the risk of collision with vessels that are maneuvering to pick up a pilot.

4. *Moving the vessel traffic lanes southeast of Victoria, British Columbia, farther off shore.* On the Canadian side of the international boundary, outbound tugs and barges exit the TSS at Discovery Island and head directly for the inshore routes south of Race Rocks, cutting across the inbound and outbound TSS lanes south of Victoria. Outbound fishing vessels exiting Baynes Channel or passing east of Discovery Island attempt to stay north of the TSS but often infringe upon the lanes near Trial Island, Discovery Island, and the pilot station. This behavior creates unnecessary and potentially dangerous interactions between deep draft vessels following the TSS and smaller vessels that choose to skirt the TSS or cut diagonally across the TSS.

The proposed change would create an inshore buffer by decreasing the width of the TSS leading from the Victoria Pilot Station to the turn south of Discovery Island while maintaining the same southern boundary on the inbound lane. This buffer zone would allow fishing vessels and other small, slow moving vessels to transit directly between Discovery Island and Race Rocks, then inshore north of the TSS, while avoiding the deep-draft TSS.

5. *Establishing precautionary areas off Discovery Island and around the Victoria Pilot Station.* The Victoria Pilot Station is at the convergence of two TSSs where there is significant traffic congestion as vessels transit to and from

the ports of Victoria and Esquimault. Likewise, two TSSs converge off Discovery Island where vessels often enter or depart the traffic scheme. Both of these are areas where vessels should proceed with particular caution. The proposed rule addresses this by proposing to establish precautionary areas ''V'' and ''HS.''

6. *Creating a new two-way route in Haro Strait and Boundary Pass and establishing a precautionary area off Turn Point.* There are currently no formal traffic lanes in Haro Strait and Boundary Pass. In recent years, the level of recreational boating has significantly increased. There has also been an explosive growth in the number of small commercial vessels providing whale-watching tours off the western shore of San Juan Island. With this growth have come increased conflicts with deep draft vessels.

Turn Point is one of the more navigationally challenging areas of Haro Strait and Boundary Pass. Transiting vessels must negotiate a blind right-angle turn at varying distances from shore depending on their direction of travel and the presence of strong currents. In addition, numerous secondary channels and passages route traffic into Haro Strait in the vicinity of Turn Point.

This proposed rule would establish a two-way route in Haro Strait and Boundary Pass that connects into two existing TSSs to the south. This would increase order and predictability for vessel traffic in these waters. By establishing a formal traffic route, the provisions of Rule 10 of the COLREGS would apply. This would reduce dangerous interactions between the deep draft vessels following the TSS and smaller vessels that choose not to follow the TSS. The edge of the traffic lane would be moved to the east from Kellet Bluff to Turn Point and a flair or pull out would be created south of Turn Point to provide maneuvering room for a vessel to safely negotiate the strong ebb currents. A precautionary area around Turn Point is being proposed for this navigationally challenging area where vessels must negotiate a sight-obscured, right-angle turn in the presence of strong currents and numerous small craft.

7. *Expanding precautionary area ''RB'' at the south end of Rosario Strait.* Deep draft vessels often cannot precisely follow the existing TSS when approaching Rosario Strait from the south. Strong currents make it impossible for vessels to avoid the separation zone as they negotiate the slight turns in the TSS just south of precautionary area ''RB''. The small turns in the TSS approaching precautionary area ''RB'' could not be eliminated without placing the TSS uncomfortably close to other shoal water.

This proposed rule would replace a small portion of the existing traffic lane with an expansion of precautionary area ''RB''. The safety of deep draft transits would be enhanced by eliminating a routing measure that large ships cannot comply with and replacing it with a precautionary area where ships must navigate with particular caution.

8. *Revising and aligning the existing TSS in Georgia Strait with the exiting TSS north of Rosario Strait and linking them with a new precautionary area off East Point.* There is presently no routing measure connecting the TSS that terminates off Patos Island with the TSS that terminates off Saturna Island. Furthermore, these two TSSs are not aligned. Traffic exiting the Strait of Georgia bound for Rosario Strait follows the TSS to its termination before angling back to the north to enter the TSS at Patos Island. Routing vessels in this manner crowds them and creates a possible conflict with traffic southbound for Boundary Pass. Finally there is no precautionary area in the vicinity of East Point, where traffic merges from several directions.

This proposed rule would create a seamless and logical traffic scheme for this area. Existing TSSs are aligned and connected to the new two-way route in Boundary Pass through the creation of a new precautionary area. By providing a contiguous TSS that connects the new Boundary Pass traffic lane with the existing or modified TSS in the Strait of Georgia and by establishing a contiguous TSS connecting the old Patos Island TSS and the Georgia Strait TSS, traffic bound for Rosario Strait could follow the TSS without impeding traffic southbound for Boundary Pass. The new precautionary area would highlight the need for potential crossing traffic in this area to exercise caution and would provide oil tankers departing Cherry Point bound for Haro Strait with a predictable and safe location to enter the traffic scheme.

9. *Creating a new precautionary area in Georgia Strait west of Delta Port and the Tsawwassen Ferry Terminal.* The recently completed container facility at Delta Port has significantly increased the volume of traffic entering and departing the TSS in the Strait of Georgia. There has also been a significant increase in traffic to and from the Tsawwassen Ferry Terminal. A new precautionary area southwest of Delta Port would accommodate vessels departing Delta Port and the Tsawwassen Ferry Terminal as they get up to maneuvering speed before and while entering the TSS.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 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, l979). We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Costs

This proposed rule would result in a slight increase in transit time because the proposed rule would extend the TSS at the entrance of the Strait of Juan de Fuca approximately 10 miles farther offshore. The additional 10-mile transit coming to or from the Strait of Juan de Fuca through the southwestern approach could result in a minimal increase in cost to the industry.

There would be no anticipated costs for vessels traveling to, from, and within the Strait of Juan de Fuca and adjacent waterways to the north. Also, there would be no anticipated costs because of modifications, reconfigurations, and extensions of the TSSs in Puget Sound and its approaches, in Haro Strait, in Boundary Pass, and in the Strait of Georgia.

Benefits

There would be no quantifiable benefits associated with codifying in the CFR the existing TSSs in the Strait of Juan de Fuca and its approaches, in Puget Sound and its approaches, and in Haro Strait, Boundary Pass, and the Strait of Georgia. There would be qualitative benefits as follows:

1. By routing traffic farther offshore, the TSS would reduce the risk of drift groundings and resulting pollution, property damage, and injuries.

2. The new exit lane north of Buoy J would reduce the risk of collision by reducing congestion and provide greater order and predictability for vessels transiting the area.

3. Shifting lanes in the Strait would reduce the risk of powered groundings.

4. Reconfiguring the traffic lanes and precautionary area off Port Angeles would reduce the risk of powered

groundings on Ediz Hook and the risk of collision at the Pilot Boarding Station.

5. Accommodating recreational-vessel routes would facilitate the separation of fast/slow and big/small traffic.

6. Creating a new two-way route in Haro Strait and Boundary Pass with a precautionary area off Turn Point would increase order and predictability. Interaction between deep draft and tug traffic with smaller vessels would be reduced, thus providing more maneuvering room for vessels.

7. Extending the precautionary area ''RB'' would reduce the risk of collision by eliminating a routing measure with which large ships cannot comply and would replace it with a precautionary area.

8. Providing a contiguous TSS connecting Boundary Pass traffic with the TSS in the Strait of Georgia would reduce the risk of collision due to the decreased conflict between traffic bound for Rosario Strait or Boundary Pass and would provide greater order for vessels merging from several directions from the vicinity of East Point.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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.

We do not anticipate that this rulemaking would have a significant economic impact on a substantial number of small entities. Most vessels using the TSSs are commercial vessels of more than 300 gross tons. The largest concentration of possible small entities using the TSSs consists of oceangoing tug/barge operators and small to medium fishing vessels. Since recent studies indicate that most tug and barge combinations transit the coast approximately 15 to 25 miles offshore, the economic impact of this proposed rule on these vessels should be minimal. This rulemaking has been conducted with the goal of minimizing any impact on fisheries.

Some vessel owners and operators, whether or not they are small entities, may incur a minimal cost due to the proposed 10-mile increase in transit distance. This proposed rule would adjust existing TSSs, which would provide an increased level of safety for mariners using the TSS. In turn, this would decrease the adverse economic effects on the region caused by casualties and pollution.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment to the Docket Management Facility at the address under **ADDRESSES.** In your comment, explain why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult George Detweiler, Coast Guard, Marine Transportation Specialist, at 202–267–0574.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

The Ports and Waterways Safety Act (PWSA) authorizes the Secretary of Transportation to issue regulations to designate TSSs to protect the marine environment. In enacting the PWSA in 1972, Congress found that advance planning and consultation with the affected States and other stakeholders was necessary in the development and implementation of a TSS. Throughout the history of the development of the TSSs in the Strait of Juan de Fuca and its approaches, in Puget Sound and its approaches, and in Haro Strait, Boundary Pass, and the Strait of Georgia, we have consulted with the affected State and Federal pilots' associations, vessel operators, users, United States and Canadian Vessel Traffic Services, Canadian Coast Guard and Transport Canada representatives, environmental advocacy groups, Native American tribal groups, and all affected stakeholders.

Presently, there are no Washington State laws or regulations concerning the same subjects as are contained in this proposed rule. We understand that the State does not contemplate issuing any such rules. However, it should be noted that, by virtue of the PWSA authority, the TSSs proposed in this rule would preempt any State rule on the same subject.

In order to apply to foreign-flag vessels on the high seas, TSSs must be submitted to, approved by, and implemented by the International Maritime Organization (IMO). The individual States of the United States are not represented at IMO; that is the role of the Federal government. The Coast Guard is the principal United States agency responsible for advancing the interests of the United States at IMO. We recognize the interest of all local stakeholders as we work at IMO to advance the goals of these TSSs. We will continue to work closely with the stakeholders in developing the final rule to ensure that the waters affected by this proposed rule are made safer and more environmentally secure.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would 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 proposed 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 proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

Several Native American tribes traditionally fish in the Strait of Juan de Fuca. The existing TSS in the Strait provides a broad separation zone, which allows ample room for the tribes' traditional gill-net fishery between the inbound and outbound vessel traffic lanes. The tribes also fish in the waters south of the inbound lane, between that lane and the northern shore of the Olympic Peninsula.

When the PARS study was completed, it recommended that the broad separation zone be narrowed and aligned with the international border, a proposal that would straighten the routes for vessels transiting the TSS and move them farther north of Olympic Peninsula. Local tribal representatives objected to this recommendation because they believed it would significantly decrease the area available to fish, by leaving insufficient room to deploy their nets without interfering with, or being interfered by, deep-draft vessels transiting the Strait. To address their concerns, we met with these tribal nations in March and August of 2000 and February of 2001. The meetings were intended to gather their recommendations on how to improve the TSS, yet minimize the impact on their drift-net fishery. Following these meetings, the tribal nations submitted recommendations to widen the separation zone. Based on these submittals and the discussion at the meetings, we reassessed the PARS recommendation and widened the proposed zone enough to support their drift-net fishery.

We do not foresee that this proposed rule would compel the tribes to significantly alter their current fishery. Furthermore, it would provide some benefits by increasing the area available for fishing south of the inbound traffic lane. We do not anticipate any additional economic cost to the tribes as a result of the proposed alteration to the separation zone. This alteration reflects a consideration of the needs of the tribal nations' drift-net fishery, balanced with the need to provide for safer transit routes farther from the Olympic Peninsula.

We have reviewed this proposed rule under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. Rulemakings that are determined to have ''tribal implications'' under that Order (*i.e.*, have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes) require the preparation of a tribal summary impact statement. This proposed rule would not have implications of the kind envisioned under the Order, because it would not impose substantial direct compliance costs on tribal governments, preempt tribal law, or substantially affect lands or rights held exclusively by, or on behalf of, those governments.

Whether or not the Executive Order applies in this case, it is the policy of the Coast Guard to seek out and consult with Native Americans on all of its rulemakings that may affect them. We have published a separate notice in the **Federal Register** (66 FR 36361, July 11, 2001) to help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes on how to best carry out the Order. With regard to this proposed rule, we invite your comments on how it might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Environmental Justice

We have analyzed this proposed rule under Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations. We have determined that this proposed rule would not result in disproportionately high and adverse human health or environmental effects on minority populations and low-income populations, including Native American tribal nations.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (34)(i), of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. This rulemaking concerns navigational aids, which include TSSs. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR part 167

Harbors, Marine safety, Navigation (water), and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 167 as follows:

PART 167—OFFSHORE TRAFFIC SEPARATION SCHEMES

1. The authority citation for part 167 continues to read as follows:

Authority: 33 U.S.C. 1223; 49 CFR 1.46.

2. Add §§ 167.1300 through 167.1303 to read as follows:

§ 167.1300 In the approaches to the Strait of Juan de Fuca: General.

The traffic separation scheme for the approaches to the Strait of Juan de Fuca consists of three parts: the western approach, the southwestern approach, and precautionary area ''JF''. These parts are described in §§ 167.1301 through 167.1303. The geographic coordinates in §§ 167.1301 through 167.1303 are defined using North American Datum (NAD 83).

§ 167.1301 In the approaches to the Strait of Juan de Fuca: Western approach.

In the western approach to the Strait of Juan de Fuca, the following are established:

(a) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°30.10′N	125°09.00′W
48°30.10′N	125°04.67′W
48°29.11′N	125°04.67′W
48°29.11′N	125°09.00′W

(b) A traffic lane for westbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°31.09′N	125°04.67′W
48°31.93′N	125°09.00′W

(c) A traffic lane for eastbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°27.31′N	125°09.00′W
48°28.13′N	125°04.67′W

§ 167.1302 In the approaches to the Strait of Juan de Fuca: Southwestern approach.

In the southwestern approach to the Strait of Juan de Fuca, the following are established:

(a) A separation zone bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°23.99′N	125°06.54′W
48°27.63′N	125°03.38′W
48°27.14′N	125°02.08′W
48°23.50′N	125°05.26′W

(b) A traffic lane for north-eastbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°22.55′N	125°02.80′W
48°26.64′N	125°00.81′W

(c) A traffic lane for south-westbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°28.13′N	125°04.67′W
48°24.94′N	125°09.00′W

§ 167.1303 In the approaches to the Strait of Juan de Fuca: Precautionary area ''JF''.

In the approaches to the Strait of Juan de Fuca, precautionary area ''JF'' is established and is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°31.09′N	125°04.67′W
48°30.10′N	125°04.67′W
48°29.11′N	125°04.67′W
48°28.13′N	125°04.67′W
48°27.63′N	125°03.38′W
48°27.14′N	125°02.08′W
48°26.64′N	125°00.81′W
48°28.13′N	125°57.90′W
48°29.11′N	125°00.00′W
48°30.10′N	125°00.00′W
48°31.09′N	125°00.00′W
48°31.09′N	125°04.67′W

3. Add §§ 167.1310 through 167.1315 to read as follows:

§ 167.1310 In the Strait of Juan de Fuca: General.

The traffic separation scheme in the Strait of Juan de Fuca consists of five parts: The western lanes, southern lanes, northern lanes, eastern lanes, and precautionary area ''PA''. These parts are described in §§ 167.1311 through 167.1315. The geographic coordinates in §§ 167.1311 through 167.1315 are defined using North American Datum (NAD 83).

§ 167.1311 In the Strait of Juan de Fuca: Western lanes.

In the western lanes of the Strait of Juan de Fuca, the following are established:

(a) A separation zone bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°29.11′N	125°00.00′W
48°29.11′N	124°43.78′W
48°13.89′N	123°54.84′W
48°13.89′N	123°31.98′W
48°14.49′N	123°31.98′W
48°17.02′N	123°56.46′W
48°30.10′N	124°43.50′W
48°30.10′N	125°00.00′W

(b)(1) A traffic lane for north-westbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°16.45′N	123°30.42′W
48°15.97′N	123°33.54′W
48°18.00′N	123°56.07′W
48°32.00′N	124°46.57′W
48°31.09′N	124°47.13′W
48°31.09′N	125°00.00′W

(2) An exit from this lane between points 48°32.00′N, 124° 46.57′W and 48°31.09′N, 124°47.13′W. Vessel traffic may exit this lane at this location or may remain in the lane between points 48°31.09′N, 124°47.13′W and 48°31.09′N, 125°00.00′W en route to precautionary area ''JF'', as described in § 167.1315.

(c) A traffic lane for south-eastbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°28.13′N	124°57.90′W
48°28.13′N	124°44.07′W
48°12.90′N	123°55.24′W
48°12.94′N	123°32.89′W

§ 167.1312 In the Strait of Juan de Fuca: Southern lanes.

In the southern lanes of the Strait of Juan de Fuca, the following are established:

(a) A separation zone bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°10.82′N	123°25.44′W
48°12.38′N	123°28.68′W
48°12.90′N	123°28.68′W
48°12.84′N	123°27.46′W
48°10.99′N	123°24.84′W

(b) A traffic lane for northbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°11.24′N	123°23.82′W
48°12.72′N	123°25.34′W

(c) A traffic lane for southbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°12.94′N	123°32.89′W
48°09.42′N	123°24.24′W

§ 167.1313 In the Strait of Juan de Fuca: Northern lanes.

In the northern lanes of the Strait of Juan de Fuca, the following are established:

(a) A separation zone bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°21.15′N	123°24.83′W
48°16.16′N	123°28.50′W
48°15.77′N	123°27.18′W
48°20.93′N	123°24.26′W

(b) A traffic lane for southbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°21.83′N	123°25.56′W
48°16.45′N	123°30.42′W

(c) A traffic lane for northbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	Longitude
48°20.93′N	123°23.22′W

Latitude	*Longitude*
48°15.13′N	123°25.62′W

§ 167.1314 In the Strait of Juan de Fuca: Eastern lanes.

In the eastern lanes of the Strait of Juan de Fuca, the following are established:

(a) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°13.22′N	123°15.91′W
48°14.03′N	123°25.98′W
48°13.54′N	123°25.86′W
48°12.89′N	123°16.69′W

(b) A traffic lane for westbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	*Longitude*
48°14.27′N	123°13.41′W
48°14.05′N	123°16.08′W
48°15.13′N	123°25.62′W

(c) A traffic lane for eastbound traffic between the separation zone and a line connecting the following geographical positions:

Latitude	*Longitude*
48°12.72′N	123°25.34′W
48°12.34′N	123°18.01′W

§ 167.1315 In the Strait of Juan de Fuca: Precautionary area ''PA''.

In the Strait of Juan de Fuca, precautionary area ''PA'' is established and is bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°12.94′N	123°32.89′W
48°13.89′N	123°31.98′W
48°14.49′N	123°31.98′W
48°16.45′N	123°30.42′W
48°16.16′N	123°28.50′W
48°15.77′N	123°27.18′W
48°15.13′N	123°25.62′W
48°14.03′N	123°25.98′W
48°13.54′N	123°25.86′W
48°12.72′N	123°25.34′W
48°12.84′N	123°27.46′W
48°12.90′N	123°28.68′W
48°12.94′N	123°32.89′W

4. Add §§ 167.1320 through 167.1323 to read as follows:

§ 167.1320 In Puget Sound and its approaches: General.

The traffic separation scheme in Puget Sound and its approaches consists of three parts: Rosario Strait, approaches to Puget Sound other than Rosario Strait, and Puget Sound. These parts are described in §§ 167.1321 through 167.1323. The geographic coordinates in §§ 167.1321 through 167.1323 are defined using North American Datum (NAD 83).

§ 167.1321 In Puget Sound and its approaches: Rosario Strait.

In Rosario Strait, the following are established:

(a) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°48.98′N	122°55.20′W
48°46.76′N	122°50.43′W
48°45.56′N	122°48.36′W
48°45.97′N	122°48.12′W
48°46.39′N	122°50.76′W
48°48.73′N	122°55.68′W

(b) A traffic lane for northbound traffic located between the separation zone described in paragraph (a) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°49.49′N	122°54.24′W
48°47.14′N	122°50.10′W
48°46.35′N	122°47.50′W

(c) A traffic lane for southbound traffic located between the separation zone described in paragraph (a) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°44.95′N	122°48.28′W
48°46.76′N	122°53.10′W
48°47.93′N	122°57.12′W

(d) Precautionary area ''CA'' contained within a circle of radius 1.24 miles centered at geographical position 48°45.30′N, 122°46.50′W.

(e) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°44.27′N	122°45.53′W
48°41.72′N	122°43.50′W
48°41.60′N	122°43.82′W
48°44.17′N	122°45.87′W

(f) A traffic lane for northbound traffic located between the separation zone described in paragraph (e) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°44.62′N	122°44.96′W
48°41.80′N	122°42.70′W

(g) A traffic lane for southbound traffic located between the separation zone described in paragraph (e) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°44.08′N	122°46.65′W
48°41.25′N	122°44.37′W

(h) Precautionary area ''C'' contained within a circle of radius 1.24 miles centered at geographical position 48°40.55′N, 122°42.80′W.

(i) A two-way route between the following geographical positions:

Latitude	*Longitude*
48°39.33′N	122°42.73′W
48°36.08′N	122°45.00′W
48°26.82′N	122°43.53′W
48°27.62′N	122°45.53′W
48°29.48′N	122°44.77′W
48°36.13′N	122°45.80′W
48°38.38′N	122°44.20′W
48°39.63′N	122°44.03′W

(j) Precautionary area ''RB'' bounded as follows:

(1) To the north by the arc of a circle of radius 1.24 miles centered on geographical position 48°26.38′N, 122°45.27′W and connecting the following geographical positions:

Latitude	*Longitude*
48°25.97′N	122°47.03′W
48°25.55′N	122°43.93′W

(2) To the south by a line connecting the following geographical positions:

Latitude	*Longitude*
48°25.97′N	122°47.03′W
48°24.62′N	122°48.68′W
48°23.75′N	122°47.47′W
48°25.20′N	122°45.73′W
48°25.17′N	122°45.62′W
48°24.15′N	122°45.27′W
48°24.08′N	122°43.38′W
48°25.55′N	122°43.93′W

§ 167.1322 In Puget Sound and its approaches: Approaches to Puget Sound other than Rosario Strait.

(a) The traffic separation scheme in the approaches to Puget Sound other than Rosario Strait consists of a northeast/southwest approach, a northwest/southeast approach, a north/south approach, and an east/west approach and connecting precautionary areas.

(b) In the northeast/southwest approach consisting of two separation zones, two precautionary areas (''RA'' and ''ND''), and four traffic lanes, the following are established:

(1) A separation zone that connects with precautionary area ''RA'', as described in paragraph (b)(2) of this section, and is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°24.13′N	122°47.97′W
48°20.32′N	122°57.02′W
48°20.53′N	122°57.22′W
48°24.32′N	122°48.22′W

(2) Precautionary area ''RA'', which is contained within a circle of radius 1.24 miles centered at 48°19.77′N, 122°58.57′W.

(3) A separation zone that connects with precautionary area ''RA'', as described in paragraph (b)(2) of this section, and is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°16.25′N	123°06.58′W
48°16.57′N	123°06.58′W
48°19.20′N	123°00.35′W
48°19.00′N	123°00.17′W

(4) A traffic lane for northbound traffic that connects with precautionary area ''RA'', as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (b)(1) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°23.75′N	122°47.47′W
48°19.80′N	122°56.83′W

(5) A traffic lane for northbound traffic that connects with precautionary area ''RA'', as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (b)(3) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°15.70′N	123°06.58′W
48°18.67′N	122°59.57′W

(6) A traffic lane for southbound traffic that connects with precautionary area ''RA'', as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (b)(1) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°24.62′N	122°48.68′W
48°20.85′N	122°57.80′W

(7) A traffic lane for southbound traffic that connects with precautionary area ''RA'', as described in paragraphs (b)(2) of this section, and is located between the separation zone described in paragraph (b)(3) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°19.70′N	123°00.53′W
48°17.15′N	123°06.57′W

(8) Precautionary area ''ND'', which is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°11.00′N	123°06.58′W
48°17.15′N	123°06.57′W
48°14.27′N	123°13.41′W
48°12.34′N	123°18.01′W
48°12.72′N	123°25.34′W
48°11.24′N	123°23.82′W
48°10.82′N	123°25.44′W
48°09.42′N	123°24.24′W
48°08.39′N	123°24.24′W
48°11.00′N	123°06.58′W

(c) In the northwest/southeast approach consisting of two separation zones, two precautionary areas (''RA'' and ''SA''), and four traffic lanes, the following are established:

(1) A separation zone that connects with precautionary area ''RA'', as described in paragraph (b)(2) of this section, and is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°27.79′N	123°07.80′W
48°25.43′N	123°03.88′W
48°22.88′N	123°00.82′W
48°20.93′N	122°59.30′W
48°20.82′N	122°59.62′W
48°22.72′N	123°01.12′W
48°25.32′N	123°04.30′W
48°27.58′N	123°08.10′W

(2) A separation zone that connects with precautionary area ''RA'', as described in paragraph (b)(2) of this section, and is bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°18.83′N	122°57.48′W
48°13.15′N	122°51.33′W
48°13.00′N	122°51.62′W
48°18.70′N	122°57.77′W

(3) A traffic lane for northbound traffic that connects with precautionary ''RA'', as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (c)(1) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°28.15′N	123°07.31′W
48°25.60′N	123°03.13′W
48°23.20′N	123°00.20′W
48°21.00′N	122°58.50′W

(4) A traffic lane for northbound traffic that connects with precautionary area ''RA'', as described in paragraphs (b)(2) of this section, and is located between the separation zone described in paragraph (c)(2) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°19.20′N	122°57.03′W
48°13.35′N	122°50.63′W

(5) A traffic lane for southbound traffic that connects with precautionary ''RA'', as described in paragraph (b)(2) of this section, and is located between the separation zone described in paragraph (c)(1) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°27.43′N	123°08.94′W
48°25.17′N	123°04.98′W
48°22.48′N	123°01.73′W
48°20.47′N	123°00.20′W

(6) A traffic lane for southbound traffic connecting with precautionary area ''RA'', as described in paragraphs (b)(2) of this section, and is located between the separation zone described in paragraph (c)(2) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°18.52′N	122°58.50′W
48°12.63′N	122°52.15′W

(7) Precautionary area ''SA'', which is contained within a circle of radius 2 miles centered at geographical position 48°11.45′N, 122°49.78′W.

(d) In the north/south approach between precautionary areas ''RB'' and ''SA'', as described in paragraphs (b)(2) and (c)(7) of this section, respectively, the following are established:

(1) A separation zone bounded by a line connecting the following geographical positions:

Latitude	Longitude
48°24.15′N	122°44.08′W
48°13.33′N	122°48.78′W
48°13.38′N	122°49.15′W
48°24.17′N	122°44.48′W

(2) A traffic lane for northbound traffic located between the separation zone described in paragraph (d)(1) of this section and a line connecting the following geographical positions:

Latitude	Longitude
48°24.08′N	122°43.38′W
48°13.10′N	122°48.12′W

(3) A traffic lane for southbound traffic located between the separation zone described in paragraph (d)(1) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°24.15′N	122°45.27′W
48°13.43′N	122°49.90′W

(e) In the east/west approach between precautionary areas ''ND'' and ''SA'', as described in paragraphs (b)(8) and (c)(7) of this section, respectively, the following are established:

(1) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°11.50′N	122°52.73′W
48°11.73′N	122°52.70′W
48°12.48′N	123°06.58′W
48°12.23′N	123°06.58′W

(2) A traffic lane for northbound traffic between the separation zone described in paragraph (e)(1) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°12.22′N	122°52.52′W
48°12.98′N	123°06.58′W

(3) A traffic lane for southbound traffic between the separation zone described in paragraph (e)(1) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°11.73′N	123°06.58′W
48°10.98′N	122°52.65′W

§ 167.1323 In Puget Sound and its approaches: Puget Sound.

The traffic separation scheme in Puget Sound consists of six separation zones and two traffic lanes connected by six precautionary areas. The following are established:

(a) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°11.08′N	122°46.88′W
48°06.85′N	122°39.52′W
48°02.48′N	122°38.17′W
48°02.43′N	122°38.52′W
48°06.72′N	122°39.83′W
48°10.82′N	122°46.98′W

(b) Precautionary area ''SC'', which is contained within a circle of radius 0.62 miles centered at 48°01.85′N, 122°38.15′W.

(c) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°01.40′N	122°37.57′W
47°57.95′N	122°34.67′W
47°55.85′N	122°30.22′W
47°55.67′N	122°30.40′W
47°57.78′N	122°34.92′W
48°01.28′N	122°37.87′W

(d) Precautionary area ''SE'', which is contained within a circle of radius 0.62 miles centered at 47°55.40′N, 122°29.55′W.

(e) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
47°54.85′N	122°29.18′W
47°46.52′N	122°26.30′W
47°46.47′N	122°26.62′W
47°54.80′N	122°29.53′W

(f) Precautionary area ''SF'', which is contained within a circle of radius 0.62 miles centered at 47°45.90′N, 122°26.25′W.

(g) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
47°45.20′N	122°26.25′W
47°40.27′N	122°27.55′W
47°40.30′N	122°27.88′W
47°45.33′N	122°26.60′W

(h) Precautionary area ''SG'', the which is contained within a circle of radius 0.62 miles centered at 47°39.68′N, 122°27.87′W.

(i) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
47°39.12′N	122°27.62′W
47°35.18′N	122°27.08′W
47°35.17′N	122°27.35′W
47°39.08′N	122°27.97′W

(j) Precautionary area ''T'', which is contained within a circle of radius 0.62 miles centered at 47°34.55′N, 122°27.07′W.

(k) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
47°34.02′N	122°26.70′W
47°26.92′N	122°24.10′W
47°23.07′N	122°20.98′W
47°19.78′N	122°26.58′W
47°19.98′N	122°26.83′W
47°23.15′N	122°21.45′W
47°26.85′N	122°24.45′W
47°33.95′N	122°27.03′W

(l) Precautionary area ''TC'', which is contained within a circle of radius 0.62 miles centered at 47°19.48′N, 122°27.38′W.

(m) A traffic lane for northbound traffic that connects with precautionary areas ''SC'', ''SE'', ''SF'', ''SG'', ''T'', and ''TC'', as described in paragraphs (b), (d), (f), (h), (j), and (k) of this section, respectively, and is located between the separation zones described in paragraphs (a), (c), (e), (g), (i), and (k) of this section, respectively, and a line connecting the following geographical positions:

Latitude	*Longitude*
48°11.72′N	122°46.83′W
48°07.13′N	122°38.83′W
48°02.10′N	122°37.32′W
47°58.23′N	122°34.07′W
47°55.83′N	122°28.80′W
47°45.92′N	122°25.33′W
47°39.68′N	122°26.95′W
47°34.65′N	122°26.18′W
47°27.13′N	122°23.40′W
47°23.33′N	122°20.37′W
47°22.67′N	122°20.53′W
47°19.07′N	122°26.75′W

(n) A traffic lane for southbound traffic that connects with precautionary areas ''SC'', ''SE'', ''SF'', ''SG'', ''T'', and ''TC'', as described in paragraphs (b), (d), (f), (h), (j), and (k) of this section, respectively, and is located between the separation zones described in paragraphs (a), (c), (e), (g), (i), and (k) of this section, respectively, and a line connecting the following geographical positions:

Latitude	*Longitude*
48°10.15′N	122°47.58′W
48°09.35′N	122°45.55′W
48°06.45′N	122°40.52′W
48°01.65′N	122°30.03′W
47°57.47′N	122°35.45′W
47°55.07′N	122°30.35′W
47°45.90′N	122°27.18′W
47°39.70′N	122°28.78′W
47°34.47′N	122°27.98′W
47°26.63′N	122°25.12′W
47°23.25′N	122°22.42′W
47°20.00′N	122°27.90′W

5. Add §§ 167.1330 through 167.1332 to read as follows:

§ 167.1330 In Haro Strait, Boundary Pass, and the Strait of Georgia: General.

The traffic separation scheme in Haro Strait, Boundary Pass, and the Strait of Georgia consists of a series of traffic separation schemes, two-way routes, and five precautionary areas. These parts are described in §§ 167.1331 and 167.1332. The geographic coordinates in

§§ 167.1331 through 167.1332 are defined using North American Datum (NAD 83).

§ 167.1331 In Haro Strait and Boundary Pass.

In Haro Strait and Boundary Pass, the following are established:

(a) Precautionary area ''V'', which is bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°21.83′N	123°25.56′W
48°21.13′N	123°24.84′W
48°20.95′N	123°24.24′W
48°20.93′N	123°23.22′W
48°21.67′N	123°21.12′W
48°22.12′N	123°21.12′W
48°22.37′N	123°21.12′W
48°22.85′N	123°21.24′W
48°23.71′N	123°23.88′W
48°21.83′N	123°25.56′W

(b) A separation zone that connects with precautionary area ''V'', as described in paragraph (a) of this section and is bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°22.37′N	123°21.12′W
48°22.39′N	123°18.36′W
48°23.90′N	123°12.78′W
48°23.63′N	123°12.78′W
48°22.15′N	123°18.30′W
48°22.12′N	123°21.12′W

(c) A traffic lane for eastbound traffic located between the separation zone described in paragraph (b) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°21.67′N	123°21.12′W
48°21.73′N	123°18.36′W
48°23.84′N	123°10.08′W

(d) A traffic lane for westbound traffic located between the separation zone described in paragraph (b) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°22.85′N	123°21.24′W
48°22.87′N	123°18.42′W
48°24.28′N	123°13.02′W
48°24.78′N	123°12.42′W

(e) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°24.72′N	123°11.40′W
48°28.81′N	123°11.46′W
48°28.37′N	123°10.68′W
48°27.17′N	123°10.26′W
48°24.95′N	123°10.68′W

(f) A traffic lane for northbound traffic located between the separation zone described in paragraph (e) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°23.84′N	123°10.08′W
48°27.43′N	123°08.94′W

(g) A traffic lane for southbound traffic located between the separation zone described in paragraph (e) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°28.79′N	123°12.77′W
48°24.78′N	123°12.42′W

(h) Precautionary area ''HS'', which is bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°28.79′N	123°12.77′W
48°31.73′N	123°13.02′W
48°31.03′N	123°11.22′W
48°29.45′N	123°09.42′W
48°28.15′N	123°07.31′W
48°27.79′N	123°07.80′W
48°27.58′N	123°08.10′W
48°27.43′N	123°08.94′W
48°28.37′N	123°10.68′W
48°28.81′N	123°11.46′W
48°28.79′N	123°12.77′W

(i) A two-way route between the following geographical positions:

Latitude	*Longitude*
48°31.03′N	123°11.22′W
48°35.18′N	123°12.78′W
48°38.37′N	123°12.36′W
48°39.20′N	123°13.09′W
48°39.41′N	123°16.06′W
48°31.73′N	123°13.02′W

(j) Precautionary area ''TP'', bounded as follows:

(1) To the north by the arc of a circle of radius 2.1 miles centered at geographical position 48°41.3′N, 123°14.2′W (Turn Point Light) and connecting the following positions:

Latitude	*Longitude*
48°43.04′N	123°16.06′W
48°43.15′N	123°12.75′W
48°42.23′N	123°11.35′W
48°40.93′N	123°11.01′W

(2) To the south by the arc of a circle of radius 2.1 miles centered at geographical position 48° 41.3′N, 123°14.2′W (Turn Point Light) and connecting the following points:

Latitude	*Longitude*
48°39.76′N	123°11.84′W
48°39.20′N	123°13.09′W
48°39.41′N	123°16.06′W

(3) To the west by a direct line connecting the following points:

Latitude	*Longitude*
48°39.41′N	123°16.06′W
48°43.04′N	123°16.06′W

(k) A two-way route between the following geographical positions:

Latitude	*Longitude*
48°43.15′N	123°12.75′W
48°46.43′N	123°03.12′W
48°48.19′N	123°00.84′W
48°47.78′N	122°59.12′W
48°45.51′N	123°01.82′W
48°42.23′N	123°11.35′W

§ 167.1332 In the Strait of Georgia.

In the Strait of Georgia, the following are established:

(a) Precautionary area ''GS'', which is bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°52.30′N	123°07.44′W
48°54.81′N	123°03.66′W
48°49.49′N	122°54.24′W
48°47.93′N	122°57.12′W
48°47.78′N	122°59.12′W
48°48.19′N	123°00.84′W
48°52.30′N	123°07.44′W

(b) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°53.89′N	123°05.04′W
48°56.82′N	123°10.08′W
48°56.30′N	123°10.80′W
48°53.39′N	123°05.70′W

(c) A traffic lane for north-westbound traffic located between the separation zone described in paragraph (b) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°54.81′N	123°03.66′W
48°57.68′N	123°08.76′W

(d) A traffic lane for south-eastbound traffic between the separation zone described in paragraph (b) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
48°55.34′N	123°12.30′W
48°52.30′N	123°07.44′W

(e) Precautionary area ''PR'', which is bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°55.34′N	123°12.30′W
48°57.68′N	123°08.76′W
49°00.37′N	123°13.32′W
48°58.18′N	123°16.74′W

(f) A separation zone bounded by a line connecting the following geographical positions:

Latitude	*Longitude*
48°59.53′N	123°14.66′W
49°03.80′N	123°21.24′W
49°03.14′N	123°22.26′W
48°58.90′N	123°15.63′W

(g) A traffic lane for north-westbound traffic located between the separation zone described in paragraph (f) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
49°00.37′N	123°13.32′W
49°04.52′N	123°20.04′W

(h) A traffic lane for south-eastbound traffic between the separation zone described in paragraph (f) of this section and a line connecting the following geographical positions:

Latitude	*Longitude*
49°02.51′N	123°23.76′W
48°58.18′N	123°16.74′W

Dated: July 5, 2002

Paul J. Pluta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 02–21785 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 112–0052b; FRL–7261–8]

Revision to the Arizona State Implementation Plan, Maricopa County Environmental Services Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Maricopa County Environmental Services Department (MCESD) portion of the Arizona State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are proposing to approve a local rule that regulates excess emissions from malfunctions, startups, and shutdowns.

DATE: Any comments on this proposal must arrive by September 26, 2002.

ADDRESSES: Mail comments to Gerardo Rios, Permits Office Chief (AIR–3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted SIP revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted SIP revision at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

Arizona Department of Environmental Quality, 1110 West Washington Street, Phoenix, AZ 85007.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local MCESD Rule 140. In the Rules section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: July 25, 2002.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 02–21664 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 160–1160; FRL–7267–5]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision pertains to a change in the state's construction permits rule. Approval of this revision will ensure consistency between the state and Federally-approved rules, and ensure Federal enforceability of the state's air program rule revision.

In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by September 26, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: August 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02–21666 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 158–1158; FRL–7267–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision pertains to a change in the state's Compliance Monitoring Usage rule. In the final rules section of this **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by September 26, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: August 12, 2002.

William A. Spratlin,

Acting Regional Administrator, Region 7.

[FR Doc. 02–21658 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 157–1157; FRL–7267–1]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the state of Missouri. This revision pertains to excess emissions emitted during start-up, shutdown, and malfunction conditions and the affirmative defenses available to sources. In the final rules section of this **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant 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 action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment.

DATES: Comments on this proposed action must be received in writing by September 26, 2002.

ADDRESSES: Comments may be mailed to Wayne Kaiser, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Wayne Kaiser at (913) 551–7603.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: August 14, 2002.

James B. Gulliford,

Regional Administrator, Region 7.

[FR Doc. 02–21660 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL SCIENCE FOUNDATION

45 CFR Part 674

Antarctic Meteorites

AGENCY: National Science Foundation (NSF).

ACTION: Proposed rule.

SUMMARY: NSF proposes issuing regulations authorizing the collection of meteorites in Antarctica for scientific research purposes only. In addition, the regulations provide requirements for appropriate collection, handling, and curation of Antarctic meteorites to preserve their scientific value. These regulations implement Article 7 of the Protocol on Environmental Protection to the Antarctic Treaty and are issued pursuant to Section 6 of the Antarctic Conservation Act, as amended by the Antarctic Science, Tourism and Conservation Act of 1996.

DATES: Comments must be received by October 28, 2002.

ADDRESSES: Comments should be sent to Anita Eisenstadt, Assistant General Counsel, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Anita Eisenstadt, Office of the General Counsel, at 703–292–8060.

SUPPLEMENTARY INFORMATION:

Background

Antarctic meteorites are a valuable non-renewable scientific resource that provide unique and important information about the origin and evolution of the solar system. A large number of meteorites representing many different meteorite classes have been collected in Antarctica since the late 1970's. These collections are possible because meteorites are easy to see on the light colored background of snow and ice and because dynamic processes of Antarctic ice fields result in accumulation of meteorites in certain zones on the ice sheet. The meteorites are generally well preserved because of the cold and dry conditions, and represent falls over the last several million years. Because of these conditions, the meteorites collected from Antarctic ice fields represent the

most unbiased sampling possible, in terms of class or type of meteorite.

The National Science Foundation (NSF) is the single-point manager of the United States Antarctic Program and supports a wide range of scientific research in the Antarctic. Over the past twenty-five years, a partnership between NSF, the National Aeronautics and Space Administration (NASA), and the Smithsonian Institution has facilitated the collection of Antarctic meteorites and their curation in support of scientific research. NSF supports the collection of meteorites through the Antarctic Search for Meteorites (ANSMET) Program. The meteorites are characterized by joint efforts of NASA and the Smithsonian Institution and they are curated in facilities at the Johnson Space Center (NASA) and at National Museum of Natural History (Smithsonian Institution). NASA publishes characterizations of the samples on the web and in newsletters (Antarctic Meteorite Newsletter), and samples are made available in a timely manner to scientific researchers.

The United States is a Party to the Protocol on Environmental Protection to the Antarctic Treaty, done at Madrid on October 4, 1991. Article 7 of the Protocol provides that ''any activity relating to mineral resources, other than scientific research, shall be prohibited.'' The Antarctic Conservation Act (ACA), (16 U.S.C. 2401 *et seq.*) as amended by the Antarctic Science, Tourism and Conservation Act of 1996 (ASTCA) (Public Law 104–227), implements the Protocol on Environmental Protection. Section 6 of the ACA, as amended by the ASTCA, directs the Director of the National Science Foundation to issue such regulations as are necessary and appropriate to implement the Protocol and the ACA. These regulations implement U.S. obligations under Article 7 of the Protocol by ensuring that meteorites in Antarctica are only collected for scientific research purposes.

In order to maximize their potential scientific value, meteorites must be collected and curated in a fashion that maximizes the information available about the meteorites and minimizes contamination as well as physical and chemical degradation. Proper curation includes making the meteorites available to bona fide scientific researchers on an impartial and timely basis.

Summary of Provisions

NSF is adding a new part 674 to its regulations to regulate the collection and curation of meteorites in Antarctica. Under the regulations, U.S. persons may collect meteorites in Antarctica only for scientific research purposes. U.S. expedition organizers who plan to collect meteorites in Antarctica are required to ensure that any meteorites collected in Antarctica after the effective date of the regulations are properly collected and handled and that appropriate arrangements have been made for the curation of any specimens collected.

The expedition organizer must submit a plan to the National Science Foundation which provides details on the procedures that will be put in place and followed to protect the scientific value of meteorite collections. The plan will need to address collection, handling, and curation procedures for any specimens collected. The plan must be submitted to the Foundation 90 days prior to the planned departure date of the expedition. NSF will solicit comments on the plan and provide an assessment of the adequacy of the plan within 45 days of receipt of the plan.

Determinations

NSF has determined, under the criteria set forth in Executive Order 12866, that this rule is not a significant regulatory action requiring review by the Office of Information and Regulatory Affairs. The proposed rule is not a major rule under the Congressional Review Act. The Unfunded Mandate Reform Act of 1995 (Public Law 104–4), in sections 202 and 205, requires that agencies prepare analytic statements before proposing any rule that may result in annual expenditures of $100 million by State, local, Indian Tribal governments, or the private sector. Since this rule will not result in expenditures of this magnitude, it is hereby certified that such statements are not necessary. As required by the Regulatory Flexibility Act, it is hereby certified this rule will not have significant impact on a substantial number of small businesses.

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and its implementing regulations, 5 CFR part 1320, do not apply to the proposed rule because there are less than ten U.S. entities which annually organize expeditions to Antarctica for the purpose of collecting meteorites. Finally, NSF has reviewed this rule in light of section 2 of Executive Order 12778 and I certify for the National Science Foundation that this rule meets the applicable standards provided in sections 2(a) and 2(b) of that order.

List of Subjects in 45 CFR Part 674

Antarctica, Meteorites, Research.

Dated: August 16, 2002.

Lawrence Rudolph,

General Counsel, National Science Foundation.

For the reasons set forth in the preamble, the National Science Foundation proposes to add 45 CFR part 674 to read as follows:

PART 674—ANTARCTIC METEORITES

Sec.

674.1 Purpose of regulations.
674.2 Scope and applicability.
674.3 Definitions.
674.4 Restrictions on collection of meteorites in Antarctica.
674.5 Requirements for collection, handling, documentation and curation of Antarctic meteorites.
674.6 Submission of information to NSF.
674.7 Exception for serendipitous finds.

Authority: 16 U.S.C. 2401 *et seq.*

§ 674.1 Purpose of regulations.

The purpose of the regulations in this part is to implement the Antarctic Conservation Act of 1978, as amended by the Antarctic Science, Tourism and Conservation Act of 1996 (16 U.S.C. 2401 *et seq.*), and Article 7 of the Protocol on Environmental Protection to the Antarctic Treaty done at Madrid on October 4, 1991. Specifically, this part is designed to ensure meteorites in Antarctica will be collected for scientific research purposes only and that U.S. expedition organizers to Antarctica who plan to collect meteorites in Antarctica will ensure that any specimens collected will be properly collected, handled, documented and curated to preserve their scientific value.

§ 674.2 Scope and applicability.

This part applies to any person who collects meteorites in Antarctica. The requirements of § 674.5 apply to any person organizing an expedition to or within Antarctica for which the United States is required to give advance notice under Paragraph (5) of Article VII of the Antarctic Treaty where one of the purposes of the expedition is to collect meteorites in Antarctica. The requirements in this Part only apply to the collection of meteorites in Antarctica after [the effective date of the final regulation].

§ 674.3 Definitions.

In this part:

Antarctica means the area south of 60 degrees south latitude.

Expedition means an activity undertaken by one or more persons organized within or proceeding from the United States to or within Antarctica for which advance notification is required

under Paragraph 5 of Article VII of the Antarctic Treaty.

Incremental cost is the extra cost involved in sharing the samples with other researchers. It does not include the initial cost of collecting the meteorites in Antarctica or the cost of maintaining the samples in a curatorial facility.

Person has the meaning given that term in section 1 of title 1, United States Code, and includes any person subject to the jurisdiction of the United States.

§ 674.4 Restrictions on collection of meteorites in Antarctica.

No person may collect meteorites in Antarctica for other than scientific research purposes.

§ 674.5 Requirements for collection, handling, documentation, and curation of Antarctic meteorites.

(a) Any person organizing an expedition to or within Antarctica, where one of the purposes of the expedition is to collect meteorites in Antarctica, shall ensure that the meteorites will be properly collected, documented, handled, and curated to preserve their scientific value. Curation includes making specimens available to bona fide scientific researchers on a timely basis, in accordance with specified procedures.

(b) Expedition organizers described in paragraph (a) of this section shall develop and implement written procedures for the collection, documentation, and curation of specimens which include the following components:

(1) *Handling requirements.* Handling procedures shall ensure that the specimens are properly labeled and handled to minimize the potential for contamination from the point of collection to the point of curation. At a minimum, handling procedures shall include:

(i) Handling the samples with Teflon or polyethylene coated implements (or equivalent);

(ii) Double bagging of samples in Teflon or polyethylene (or equivalent) bags;

(iii) Securely attaching a sample identifier to the bag;

(iv) Keeping the samples frozen at or below −15C until opened and thawed in a clean laboratory setting at the curation facility; and

(v) Thawing in a clean, dry nitrogen environment.

(2) *Sample documentation.* Documentation for each specimen, that includes, at a minimum:

(i) A unique identifier for the sample;

(ii) The date of find;

(iii) The date of collection (if different from date of find);

(iv) The latitude and longitude to within 500 meters of the location of the find and the name of the nearest named geographical feature;

(v) The name, organizational affiliation, and address of the finder or the expedition organizer;

(vi) A physical description of specimen and of the location of the find; and

(vii) Any observations of the collection activity, such as potential contamination of the specimen.

(3) *Curation.* Make prior arrangements to ensure that any specimens collected in Antarctica will be maintained in a curatorial facility that will:

(i) Preserve the specimens in a manner that precludes chemical or physical degradation;

(ii) Produce an authoritative classification of the meteorite that contains enough information to group an individual meteorite into an established chemical and petrological type;

(iii) Develop and maintain curatorial records associated with the meteorites including collection information, authoritative classification, total known mass, information about handling and sample preparation activities that have been performed on the meteorite, and sub-sample information;

(iv) Submit an appropriate summary of information about the meteorites to the Antarctic Master Directory via the National Antarctic Data Coordination Center as soon as possible, but no later than two years after receipt of samples at the curatorial facility;

(v) Submit information on classification of the meteorite to an internationally recognized meteorite research catalog, such as the ''Catalogue of Meteorites'' published by the Natural History Museum of London or the ''Meteoritical Bulletin'' published by the Meteoritical Society;

(vi) Specify procedures by which requests for samples by bonafide scientific researchers will be handled;

(vii) Make samples available to bonafide scientific researchers at no more than incremental cost and within a reasonable period of time; and

(viii) In the event that the initial curatorial facility is no longer in a position to provide curation services for the specimens, or believes that the meteorites no longer merit curation, it shall consult with the National Science Foundation's Office of Polar Programs to identify another appropriate curatorial facility, or to determine another appropriate arrangement.

§ 674.6 Submission of information to NSF.

A copy of the written procedures developed by expedition organizers pursuant to § 674.5(b) shall be furnished to the National Science Foundation's Office of Polar Programs at a minimum of 90 days prior to the planned departure date of the expedition for Antarctica. NSF shall publish a notice of availability of the plan in the **Federal Register** that provides for a 15 day comment period. NSF shall evaluate the procedures in the plan to determine if they are sufficient to ensure that the meteorites will be properly collected, handled, documented, and curated. NSF shall provide comments on the adequacy of the plan within 45 days of receipt. If NSF advises the expedition organizer that the procedures satisfy the requirements of § 674.5 and the procedures are implemented, the expedition organizer will have satisfied the requirements of this Part.

§ 674.7 Exception for serendipitous finds.

A person who makes a serendipitous discovery of a meteorite in Antarctica which could not have been reasonably anticipated, may collect the meteorite for scientific research purposes, provided that the meteorite is collected in the manner most likely to prevent contamination under the circumstances, and provided that the meteorite is otherwise handled, documented and curated in accordance with the requirements of § 674.5.

[FR Doc. 02–21621 Filed 8–26–02; 8:45 am]

BILLING CODE 7555–01–P

Notices

Federal Register
Vol. 67, No. 166
Tuesday, August 27, 2002

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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Bureau for Democracy, Conflict and Humanitarian Assistance, Office of Food for Peace; Announcement of Draft Pub. L. 480 Title II Guidelines for FY 2004 Cooperating Sponsor Results Report and Resource Request (CSR4); Notice

Pursuant to the Agricultural Trade Development and Assistance Act of 1954 (Pub. L. 480, as amended), notice is hereby given that the Pub. L. 480 Title II Guidelines for FY 2004 Cooperating Sponsor Results Report and Resource Request (CSR4) are being made available to interested parties for the required thirty (30) day comment period.

Individuals who wish to receive a copy of these draft guidelines should contact: Office of Food for Peace, Agency for International Development, RRB 7.06–153, 1300 Pennsylvania Avenue, Washington, DC 20523–7600. Individuals who have questions or comments on the draft guidelines should contact Angelique M. Crumbly at the above address or at (202) 712–4279.

The thirty-day comment period will begin on the date that this announcement is published in the **Federal Register**.

Dated: August 15, 2002.

Lauren Landis,

Director, Office of Food for Peace, Bureau for Democracy, Conflict and Humanitarian Assistance.

[FR Doc. 02–21771 Filed 8–26–02; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

White River National Forest, Colorado, Travel Management Plan

AGENCY: Forest Service, USDA.

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

SUMMARY: Pursuant to 40 Code of Federal Regulations (CFR) 1501.7, the Forest Supervisor of the White River National Forest gives notice of the intent to prepare an environmental impact statement (EIS) in conjunction with the Travel Management Plan (Travel Plan) for the White River National Forest.

This notice describes the specific elements to be included in the Travel Plan, decisions to be made, estimated dates for filing the EIS, information concerning public participation, and the names and address of the agency officials who can provide information.

DATES: Comments concerning the scope of the analysis must be received by October 31, 2002. The draft environmental impact statement (DEIS) is expected in the winter of 2004, and the final environmental impact statement (FEIS) is expected winter/spring of 2005.

ADDRESSES: Send written comments to Dottie Bell, White River National Forest, PO Box 948, Glenwood Springs, Colorado 81602.

FOR FURTHER INFORMATION CONTACT: Vincent Picard, Public Affairs Specialist, White River National Forest, PO Box 948, Glenwood Springs, Colorado 81602, (970) 945–2521.

FOR TECHNICAL INFORMATION CONTACT: Wendy Haskins, Transportation Planner, White River National Forest, PO Box 948, Glenwood Springs, Colorado 81602, (970) 945–2521, or Dan Hormaechea, Planning and Information Systems Director, White River National Forest, PO Box 948, Glenwood Springs, Colorado 81602, (970) 945–2521.

Responsible Official: Martha Ketelle, Forest Supervisor, White River National Forest, PO Box 948, Glenwood Springs, Colorado 81602.

SUPPLEMENTARY INFORMATION: Pursuant to 40 Code of Federal Regulations (CFR) 1501.7, the Forest Supervisor for the White River National Forest gives notice of the agency's intent to prepare an EIS in conjunction with the Travel Management Plan required under 36 CFR 212.5(b). The White River National Forest invites those interested parties and affected people to participate in the analysis and contribute to the final decision for this proposed action.

The Forest Service is seeking information, comments and assistance from individuals, organizations, tribal governments, and federal, state and local agencies that are interested in or may be affected by the proposed action. The public is invited to help identify issues and define the range of alternatives to be considered in the EIS. The range of alternatives will be based on the identification of significant public issues, management concerns, resource management opportunities, and plan decisions specific to Travel Management within the scope of the White River National Forest Land and Resource Management Plan 2002 Revision (Forest Plan). Written comments identifying issues for analysis and range of alternatives are encouraged.

Background

Travel can be described as the movement of people, goods and services. Travel management on the White River National Forest considers the planning of and providing for the appropriate movement of people and products through the Forest. An efficient transportation network is essential for forest resource management, outdoor recreation use and access. Forest management considers vegetation, water, soil, aquatic ecosystems, wildlife, range, recreation, minerals, and fire management. Access is necessary to manage these resources and activities, as well as provide egress and ingress to private in-holdings. This transportation network and the manner in which it is used needs to be efficient, effective in providing access, properly maintained, and ecologically sound to minimize adverse affects on resources.

The White River National Forest's current travel system receives most of its use from recreation users. Recreation on the Forest has substantially increased since the last major transportation planning effort in 1984. Since that time, there have been technological changes that effect access and recreation use. Mountain bikes have become very popular, and they are able to go on a variety of terrains. Likewise, all terrain vehicle and snowmobile advances allow these machines to access areas that were once inaccessible.

There are two main types of recreation travel, destination travel and recreation occurring on the travelway.

Destination travel can be defined as using the travelway to get to a particular site for recreational purposes. Examples are fishing, picnicking, boating, hunting, skiing, site seeing, gathering forest products, visiting historic sites and camping. Recreation occurring on the travelway can include driving for pleasure, 4-wheel driving, jeeping, all terrain vehicle driving, motorcycling, horseback riding, hiking, snowmobiling, cross-country skiing, snowshoeing and mountain biking. Some types of recreation entail both types of travel; all of these uses require some type of transportation access. With the amount and variety of uses, recreational activities can cause user conflict. The transportation network and uses on the network needs to be able to accommodate the varied recreational activities our publics enjoy. At the same time, this network has to be an efficient, manageable system for the Forest Service. Developing a Travel Plan to accommodate and balance the transportation needs of the public and to provide adequate access for forest and resource management is the goal of this document.

Purpose and Need for Action

In order to align the travel strategy on the Forest with the White River Forest Plan and to comply with 36 CFR 212.5(b), the Forest Supervisor expressed the need for a forest-wide Travel Management Plan. This effort is the extension of an earlier effort to provide a Travel Management Plan along with the White River Forest Plan. Due to public input and the complexity of the subject matter, the decision was made to separate the two plans and develop the Travel Management Plan after the completion of the Forest Plan. This Travel Management Plan and the incorporated EIS intend to meet that commitment.

Since the last Travel Plan (1984), land management concepts, practices and priorities have modified. Technology and science have advanced, and they are reflected in Forest Service land management. These changes also need to be reflected in an efficient travel system that serves land management in an ecologically sound manner.

Recreational use on the Forest has increased over the past eighteen years and new modes of travel have come into play (*i.e.*, mountain bikes and all-terrain vehicles). Advances in vehicular and mechanical travel have allowed machines to travel further and over rougher terrain than before. The Forest needs to address how and where to allow various forms of recreation and how to accommodate the varied, and sometimes conflicting, recreation uses.

This document seeks to update the travel management uses and to identify an efficient road and trail system for the White River National Forest. The purpose is to have a clear and concise plan for a transportation network that addresses the needs for forest management, public access and recreation use.

Nature of Decision To Be Made

The Travel Management Plan is an assessment of how and where travel should occur on the Forest. The development of this document shall be an accumulation of ideas, concepts, and analysis from forest specialists, district personnel, other agency personnel, and interested publics.

The six decisions to be made in the Travel Management Plan are:

1. Designation of summer (snow-free) travel area strategies.

• Area strategy describes whether an area is open, restricted, or closed to a specific use and where that use is allowed to occur.

2. Designations for road and trail uses during summer (snow-free) periods.

• These define specific use for each road and trail including seasonal restrictions. The standard use categories are passenger car, four-wheel drive vehicles, all-terrian vehicle, motorcycle, mountain bike, horse and pack animal, and foot.

3. Designation of winter travel area strategies.

• An area strategy describes whether an area is open, restricted, or closed to a specific use.

4. Designation of winter routes.

• Defines routes through restricted areas for over-snow use.

5. Designation or elimination of unclassified travelways.

• Currently there are over 500 miles of inventoried or known roads and trails that are not officially designated as part of the Forest travel system. These may have been constructed for specific short-time purpose and were never properly closed, or they may also be the result of traffic going off-road or trail repeatly forming an illegal road or trail. Legally, the Forest Service cannot recognize nor maintain them. Therefore, it is proposed to either designate these travelways or eliminate them. This will be a one-time look at these travelways for designation or elimination; one which follows the NEPA process and examines the environmental impacts. After this process, any new unclassified travelways will automatically be designated for elimination. Any new road or trail proposed would have to undergo analysis in accordance with the National Environmental Policy Act (NEPA).

6. Identification of specific roads for decommissioning.

• One of the objective strategies in the Forest Plan is to decommission 22 miles of unneeded road per year. The Travel Plan will identify specific system roads that meet the criteria for decommissioning.

Range of Alternatives

The proposed action is to create a Travel Management Plan for the White River National Forest. All alternatives will be in compliance with and tier to the decisions made in the Forest Plan. It is not the intent of this proposal to amend the Forest Plan.

The range of alternatives considered will address different options to resolve concerns raised as significant issues and to fulfill the purpose and need. A reasonable range of alternatives will be evaluated. Rationale will be given for any alternative eliminated from detailed consideration. Alternatives will represent differing concepts based on quality and quantity of travel.

A ''no-action alternative'' is required by law. The no-action alternative under this analysis will assume travel management conditions as described under the Forest Plan. Additional alternatives will provide a range of ways to address and respond to public issues, management concerns and resource opportunities identified during the scoping process.

The following thematic descriptions represent three alternatives to be considered in the EIS.

• *Maximum:* This alternative emphasizes the social and recreational needs associated with an expanded the transportation system. It allows more opportunity for separation of recreational uses and more opportunity for winter travel. It adds relatively more unclassified roads and trails into the system and has less miles of roads to be decommissioned. It would contain the most miles of roads and trails available for travel. With more miles of trail and road, there would be relatively more impacts to resources; therefore, mitigation and protection measures would take longer to implement under this alternative.

• *Minimum:* This alternative places less of an emphasis on meeting social and recreational needs. It follows the hierarchical or shared recreational use system, with few routes designated for a single use, and provides less opportunity for winter travel. Fewer unclassified roads and trails are added to the system with more miles of road

selected for decommissioning. This alternative would have the least amount of roads and trails available for travel. Under this alternative, there are relatively less impacts to resources; therefore, mitigation and protection measures take a shorter amount of time to implement.

• *Blended:* In this alternative, social, recreation and resource needs associated with the transportation system are considered equitably. This alternative seeks to create a balanced emphasis containing both separation of uses and shared use systems, along with a moderate amount of area available for winter travel. In this alternative, some unclassified roads and trails are be added to the system. Some system roads are selected for decommissioning.

• *No Action:* This alternative reflects the current condition under the Forest Plan. It contains the roads and trails currently in the travel system. The uses generally follow the heirarchical system. No unclassified roads or trails are added to the system, and no classified roads are designated for decommissioning under this alternative.

The public is encouraged to comment on these alternative concepts as well as present others for consideration.

Scoping Process/Comment Requested

The first formal opportunity to comment on the White River Travel Management Plan is during the scoping process (40 CFR 1501.7), which begins with the issuance of this notice of intent. All comments, including the names, addresses and when provided, are placed in the record and are available for public inspection. Comments must be in writing. Mail comments to: Dottie Bell, White River National Forest, PO Box 948, Glenwood Springs, Colorado 81602.

The Forest Service requests comments on the nature and scope of the environmental, social and economic issues, and possible alternatives related to the development of this Travel Management Plan and EIS.

A series of public opportunities are scheduled to explain the Travel Management Planning and provide an opportunity for public input. Five (5) scoping meetings are planned.

September 10—Garfield County Fairgrounds (one of the rooms under the grandstand), 6–9 p.m.
September 12—Blanco Ranger District Office, 3–7 p.m.
September 16—Eagle County Office in Basalt (Mt. Sopris Room), 6:30–9 p.m.
September 17—Summit County Middle School auditorium, 6–9 p.m.
September 18—Avon Public Library (Beaver Creek Room), 6–9 p.m.

Written comments will be accepted at these meetings. The Forest Service will work with tribal governments to address issues that would significantly or uniquely affect them.

Response To Comments/Forest Plan EIS Process

During the Proposed Forest Plan and DEIS comment period, many comments were received regarding travel management. Many of these were addressed in the White River Forest Plan Environmental Impact Statement in Appendix A, Response to Comments. The remaining comments, which tended to be site-specific (*i.e.,* addressed a specific road or trail), were sorted and distributed to the responsible ranger district. The ranger district and the ID team will use these for reference. The comments received from the Proposed Forest Plan and DEIS on travel management will be incorporated into internal deliberative processes. The comments that do not comply with the Forest Plan cannot be considered. Because the Travel Management Plan/EIS is a stand-alone document, only public comment letters on the Travel Management Plan DEIS will be formally addressed in an appendix in the FEIS.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A DEIS will be prepared for comment. The comment period on the DEIS will be 60 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

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 DEISs must structure their participation in the environmental review of the proposal so 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 DEIS stage but are not raised until after completion of the final EIS 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 60-day comment period so substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. 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.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: August 20, 2002.

Stephen C. Sherwood,

Deputy Forest Supervisor.

[FR Doc. 02–21706 Filed 8–26–02; 8:45 am]

BILLING CODE 3410–BW–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tehama County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tehama County Resource Advisory Committee (RAC) will meet in Red Bluff, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Other Project Proposals/Possible Action, (5) Sunflower Coordinated Resource Presentation/Possible Action, (6) Valentine Ridge Project Proposal/Possible Action, (7) General discussion, (8) National RAC Member Talk, (9) Evaluation Criteria Form/Possible Action, (10) House Committee Report, (11) Draft Addition to Standard Long Form/Possible Action.

DATES: The meeting will be held on September 12, 2002, from 9 a.m. and end at approximately 12 p.m.

ADDRESSES: The meeting will be held at the Lincoln Street School, Conference Room A, 1135 Lincoln Street, Red Bluff, CA. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino,

DFO, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, PO Box 164, Elk Creek, CA 95939. (530) 968–5329; EMAIL *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by September 9, 2002 will have the opportunity to address the committee at those sessions.

Dated: August 21, 2002.

James F. Giachino,

Designated Federal Official.

[FR Doc. 02–21732 Filed 8–26–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Rehabilitation of Floodwater Retarding Structure No. 3C of the East Fork Above Lavon Watershed of the Trinity River Watershed, Collin County, TX

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 rehabilitation of Floodwater Retarding Structure No. 3C of the East Fork Above Lavon Watershed of the Trinity River Watershed.

FOR FURTHER INFORMATION CONTACT: Tomas M. Dominquez, Acting State Conservationist, Natural Resources Conservation Service, 101 South Main, Temple, Texas 76501–7682, Telephone (254) 742–9800.

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, Tomas M. Dominquez, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project will rehabilitate Floodwater Retarding Structure No. 3C to maintain the present level of flood control benefits and comply with the current performance and safety standards.

Rehabilitation of the site will require the disturbance of 3.59 acres. A new 30 inch principal spilllway and an additional auxiliary spillway 180 feet wide will be installed. The disturbed areas will be planted to plants that have wildlife values. The proposed work will not affect any prime farmland, endangered or threatened species, wetlands, or cultural resources.

Federal assistance will be provided under authority of the Small Watershed Rehabilitation Amendments of 2000 (Section 313, Pub. L. 106–472). Total project costs is estimated to be $1,215,700, of which $790,205 will be paid from the Small Watershed Rehabilitation funds and $425,495 from local funds.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. 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 Tomas M. Dominquez, Acting State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: August 13, 2002.

Tomas M. Dominquez,

Acting State Conservationist.

[FR Doc. 02–21715 Filed 8–26–02; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Twin Parks Watershed, Iowa County, Wisconsin

AGENCY: Natural Resources Conservation Service (NRCS) in Wisconsin Department of 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, Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Twin Parks Watershed, Iowa County, Wisconsin.

FOR FURTHER INFORMATION CONTACT: Thomas Krapf, Water Resources Staff Leader, 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 a pipe separation in Twin Parks Structure Number 10, the raising of the dam an average of one foot to meet current freeboard guidelines, and the enactment of a county floodplain zoning ordinance which restricts future development within the hydraulic shadow of Structure Number 10.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. 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 Thomas Krapf.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Dated: July 24, 2002.

Patricia S. Leavenworth,

State Conservationist.

[FR Doc. 02–21714 Filed 8–26–02; 8:45 am]

BILLING CODE 3410–16–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

[Docket No. 02–2]

Information Quality Guidelines

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of availability of draft information quality guidelines and request for comments.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has placed draft information quality guidelines on its web site for public review and comment. The purpose of the draft information quality guidelines is to ensure the quality, objectivity, utility, and integrity of certain information disseminated by the Access Board to the public. The draft guidelines also provide an administrative mechanism for requests for correction of information publicly disseminated by the Access Board. Comments will be accepted on the draft guidelines and the Access Board will consider those comments prior to issuing final guidelines.

DATES: Comments on the draft guidelines must be received by September 10, 2002.

ADDRESSES: Comments should be sent to the Office of General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW, suite 1000, Washington, DC 20004–1111. E-mail comments should be sent to *stewart@access-board.gov.* Comments sent by e-mail will be considered only if they contain the full name and address of the sender in the text. Comments will be available for inspection at the above address from 9 a.m. to 5 p.m. on regular business days.

FOR FURTHER INFORMATION CONTACT: Elizabeth Stewart, Deputy General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW, suite 1000, Washington DC 20004–1111. Telephone number (202) 272–0042 (voice); (202) 272–0082 (TTY). Electronic mail address: *stewart@access-board.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 515 of the Treasury and General Government Appropriations Act for FY 2001 (Pub. L. 106–554), the Office of Management and Budget (OMB) issued implementing guidelines entitled ''Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies.'' [1] OMB's implementing guidelines directed each agency to post final information quality guidelines on their web site no later than October 1, 2002. The Access Board has made its draft information quality guidelines available on its web site for public comment and review at *http://www.access-board.gov/infoquality.htm.*

The purpose of these information quality guidelines is to ensure and maximize the quality, objectivity, utility, and integrity of information disseminated by the Access Board. The guidelines also establish administrative mechanisms allowing affected persons to seek and obtain correction of information that does not comply with these guidelines. Pursuant to the implementing guidelines issued by OMB, the Access Board must report annually to the Director of OMB, beginning January 1, 2004, on the number and nature of complaints regarding the Access Board's compliance with the information quality guidelines and how such complaints were resolved.

The Access Board will consider all comments received in response to this notice and will issue final information quality guidelines before October 1, 2002.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 02–21739 Filed 8–26–02; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and requests for revocation in part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke five antidumping duty orders in part.

EFFECTIVE DATE: August 27, 2002.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2001), for administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on Silicon Metal from Brazil, Fresh Atlantic Salmon from Chile, Certain Pasta from Italy, Certain Pasta from Turkey and Persulfates from the People's Republic of China.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than July 31, 2003.

[1] Published by OMB on September 28, 2001 (66 FR 49718), updated January 3, 2002 (67 FR 369), and corrected February 22, 2002 (67 FR 8452).

	Period to be reviewed
Antidumping Duty Proceedings	
Brazil: Silicon Metal, A–351–806	7/1/01–6/30/02
Companhia Brasileira Carbureto De Calcio	
Rima Industrial S/A	
Chile: Fresh Atlantic Salmon, A–337–803	7/1/01–6/30/02
Acuicultura de Aquas Australes	
Agromar Ltda.	
Aguas Claras S.A.	
Antarfish S.A.	
Aqua Chile S.A.	
Aquasur Fisheries Ltda.	
Asesoria Acuicola S.A.	
Australis S.A.	
Best Salmon	
Cenculmavique	
Centro de Cultivo de Moluscos	
Cerro Farrellon Ltda.	
Chile Cultivos S.A.	
Chisal S.A.	
Comercializadora Smoltech Ltda.	
Complejo Piscicola Coyhaique	
Cultivadora de Salmones Linao Ltda.	
Cultivos Marinos Chiloe Ltda.	
Cultivos San Juan	
Cultivos Yardan S.A.	
Empresa Nichiro Chile Ltda.	
Fiordo Blanco S.A.	
Fisher Farms	
Fitz Roy S.A.	
Fjord Sea Food Chile	
Friosur S.A.	
Ganadera Del Mar	
Gentec S.A.	
Granja Maria Torna Galeones S.A.	
Hiuto Salmones S.A.	
Huitosal Mares Australes Salmo Pac.	
Instituto Tecnologico Del Salmon S.A.	
Inversiones Pacific Star Ltda.	
Invertec Pesquera Mar de Chiloe Ltda.	
Los Fiordos Ltda.	
Manao Bay Fishery S.A.	
Mardim Ltda.	
Marine Harvest Chile S.A.	
Ocean Horizons Chile S.A.	
Pacific Mariculture	
Patagonia Fish Farming S.A.	
Patagonia Salmon Farming S.A.	
Pesca Chile S.A.	
Pesquera Antares S.A.	
Pesquera Chiloe S.A.	
Pesquera Eicosal Ltda.	
Pesquera Friosur S.A.	
Pesquera Los Fiordos Ltda.	
Pesquera Mares de Chile S.A.	
Pesquera Pacific Star	
Pesquera Quellon Ltda.	
Pesquera Y Comercial Rio Peulla S.A.	
Piscicola Entre Rios S.A.	
Piscicultura Iculpe	
Piscicultura La Cascada	
Piscultura Santa Margarita	
Productos Del Mar Ventisqueros S.A.	
Prosmolt S.A.	
Quetro S.A.	
River Salmon S.A.	
Robinson Crusoe Y Cia. Ltda.	
Salmoamerica	
Salmones Andes S.A.	
Salmones Antarctica S.A.	
Salmones Aucar Ltda.	
Salmones Caicaen S.A.	
Salmones Calbuco S.A.	
Salmones Chiloe S.A.	

	Period to be reviewed
Salmones Friosur S.A.	
Salmones Huillinco S.A.	
Salmones Ice Val Ltda.	
Salmones Llanquihue	
Salmones Mainstream S.A.	
Salmones Multiexport Ltda.	
Salmones Pacific Star Ltda.	
Salmones Pacifico Sur S.A.	
Salmones Quellon	
Salmones Ranco Sur Ltda.	
Salmones Tecmar S.A.	
Salmones Tierra Del Fuego Ltda.	
Salmones Unimarc S.A.	
Salmosan	
Seafine Salmon S.A.	
Skyring Salmon S.A.	
Soc. Agricola Chillehue Ltda.	
Soc. Alimentos Maritimos Avalon Ltda.	
Soc. Aquacultivos Ltda.	
Truchas Aguas Blancas Ltda.	
Trusal S.A.	
Ventisqueros S.A.	
France: Stainless Steel Sheet and Strip in Coils, A–427–814—Ugine S.A.	7/1/01–6/30/02
Germany: Stainless Steel Sheet and Strip in Coils, A–427–825	7/1/01–6/30/02
Krupp Thyssen Nirosta GmbH	
Thyssen Krupp VDM GmbH	
Germany: Industrial Nitrocellulose, A–428–803—Wolff Walsrode AG	7/1/01–6/30/02
Iran: In-Shell Pistachios, A–507–502	7/1/01–6/30/02
Nima Trading Company	
Rafsanjan Pistachios Producers Cooperative	
Italy: Certain Pasta, A–475–818	7/1/01–6/30/02
F. Divella S.P.A.	
Industria Alimentare Colavita, S.p.A.	
Industrie Alimentari Molisane S.r.l.	
Labor S.r.l.	
Molino e Pastificio Tomasello S.r.l.	
Pastificio Antonio Pallante S.r.l.	
Pastificio Guido Ferrara	
Pastificio Garofalo S.p.A.	
IAPC Italia S.r.l.	
Pastificio F.LLI Pagani S.p.A.	
Pastificio Zaffiri S.r.l.	
P.A.M., S.r.l.—Prodotti Alimentari Meridionali.	
Rummo S.p.A. Pastificio e Molino	
Italy: Stainless Steel Sheet and Strip in Coils, A–475–824—Thyssen Krupp Acciai Speciali S.p.A.	7/1/01–6/30/02
Mexico: Stainless Steel Sheet and Strip in Coils, A–201–822—Thyssen Krupp Mexinox S.A. de C.V.	7/1/01–6/30/02
Republic of Korea: Stainless Steel Sheet and Strip in Coils, A–580–834	7/1/01–6/30/02
Dai Yang Metal Co., Ltd	
Pohang Iron & Steel Co., Ltd.	
Taiwan: Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/01–6/30/02
Chia Far Industrial Factory Co., Ltd.	
Ta Chen Stainless Pipe Co., Ltd.	
Tung Mung Development Co., Ltd.	
Yieh United Steel Corporation	
Thailand: Canned Pineapple, A–549–813	7/1/01–6/30/02
Dole (Thailand)/Dole Package Foods Co./Dole Food Co.	
Kuiburi Fruit Canning Company Limited	
Malee Sampran Factory Public Company, Ltd.	
The Prachuab Fruit Canning Company	
Siam Fruit Canning (1988) Co., Ltd.	
Siam Food Products Public Company Ltd.	
Thai Pineapple Canning Industry Corporation	
The Thai Pineapple Public Co., Ltd.	
Vita Food Factory (1989) Co., Ltd.	
Thailand: Carbon Steel Butt-Weld Pipe Fittings, A–549–807—Thai Benkan Corporation, Ltd.	7/1/01–6/30/02
Thailand: Furfuryl Alcohol, A–549–812—Indorama Chemicals Thailand Ltd.	7/1/01–6/30/02
The People's Republic of China: Bulk Aspirin [1], A–570–853	7/1/01–6/30/02
Shandong Xinhua Pharmaceutical Co., Ltd.	
Jilin Henghe Pharmaceutical Co., Ltd.	
The People's Republic of China: Persulfates [2], A–570–847—Shanghai Ai Jian Import & Export Corp./Shanghai Ai Jian Reagent Works	7/1/01–6/30/02
The People's Republic of China:Sebacic Acid [3], A–570–825	7/1/01–6/30/02
Tianjin Chemicals Import & Export Co.	

	Period to be reviewed
Guangdong Chemicals Import and Export Co.	
Turkey: Certain Pasta, A–489–805—Filiz Gida Sanayi ve Ticaret A.S.	7/1/01–6/30/02
The United Kingdom: Industrial Nitrocellulose, A–412–803—Imperial Chemical Industries PLC and its affiliates	7/1/01–6/30/02
Countervailing Duty Proceedings	
Italy: Certain Pasta, C–475–819	1/1/01–12/31/01
Delverde, SpA	
F. Divella S.p.A.	
F.lli De Cecco di Filippo Fara S. Martino S.p.A.	
Labor S.r.l.	
Suspension Agreements	
None.	

[1] If one of the above named companies does not qualify for a separate rate, all other exporters of bulk aspirin from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[2] If one of the above named companies does not qualify for a separate rate, all other exporters of persulfates from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

[3] If one of the above named companies does not qualify for a separate rate, all other exporters of sebacic acid from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping order under § 351.211 or a determination under § 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: August 19, 2002.

Holly A. Kuga,

Senior Office Director, Group II, Office 4, Import Adminstration.

[FR Doc. 02–21803 Filed 8–26–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–801]

Notice of Postponement of Preliminary Antidumping Duty Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of postponement of preliminary determination of antidumping duty investigation.

EFFECTIVE DATE: August 27, 2002.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva or Lisa Shishido, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3208, (202) 482–1382, respectively.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary determination of the investigation of certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam'').

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2002).

Postponement of Determination Results

The Department has determined that this case is extraordinarily complicated and additional time beyond the current December 5, 2002, deadline is necessary to make the preliminary determination. Completion of the preliminary results within the 190 day period is impracticable for the following reason: (1) This is the first antidumping duty investigation on imports from Vietnam; (2) The Department needs to determine whether Vietnam is to be treated as a market or a non-market economy for purposes of this antidumping duty investigation. The Department is postponing the preliminary determination until 190 days after initiation in accordance with section 733(c)(1)(B) of the Act.

Therefore, the preliminary determination is now due on January 24, 2003. The deadline for the final determination will continue to be 75 days after the date of the preliminary determination.

Dated: August 20, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–21768 Filed 8–26–02; 8:45 am]

BILLING CODE 3510–DS–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Products Produced or Manufactured in the Philippines

August 21, 2002.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: August 27, 2002.

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 adjusted for carryforward, swing and special shift.

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 66 FR 65178, published on December 18, 2001). Also see 66 FR 63031, published on December 4, 2001.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 21, 2002.

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 27, 2001, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2002 and extends through December 31, 2002.

Effective on August 27, 2002, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
237	852,357 dozen.
333/334	436,405 dozen of which not more than 63,330 dozen shall be in Category 333.
335	232,422 dozen.
336	1,204,930 dozen.
340/640	1,450,907 dozen.
341/641	1,269,797 dozen.
342/642	1,001,493 dozen.
345	286,118 dozen.
351/651	1,000,461 dozen.
352/652	4,231,567 dozen.
359–C/659–C [2]	798,442 kilograms.
361	2,917,401 numbers.
369–S [3]	1,383 kilograms.
433	4,005 dozen.
445/446	36,284 dozen.
447	10,087 dozen.
611	854,442 square meters.
633	78,873 dozen.
634	815,760 dozen.
635	499,051 dozen.
636	2,385,465 dozen.
638/639	3,038,618 dozen.
643	737,342 numbers.
645/646	1,110,747 dozen.
647/648	1,722,426 dozen.
Group II	
200–220, 224–227, 300–326, 332, 359pt. [4], 360, 362, 363, 369pt. [5], 400–414, 434–438, 442, 444, 448, 459pt. [6], 469pt. [7], 603, 604, 613–620, 624–629, 644, 659–O [8], 666pt. [9], 845, 846 and 852, as a group.	234,534,827 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 2001.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[3] Category 369–S: only HTS number 6307.10.2005.

[4] Category 359pt.: all HTS numbers except 6115.19.8010, 6117.10.6010, 6117.20.9010, 6203.22.1000, 6204.22.1000, 6212.90.0010, 6214.90.0010, 6406.99.1550, 6505.90.1525, 6505.90.1540, 6505.90.2060 and 6505.90.2545.

[5] Category 369pt.: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.22.4020, 4202.22.4500, 4202.22.8030, 4202.32.4000, 4202.32.9530, 4202.92.0505, 4202.92.1500, 4202.92.3016, 4202.92.6091, 5601.10.1000, 5601.21.0090, 5701.90.1020, 5701.90.2020, 5702.10.9020, 5702.39.2010, 5702.49.1020, 5702.49.1080, 5702.59.1000, 5702.99.1010, 5702.99.1090, 5705.00.2020, 5805.00.3000, 5807.10.0510, 5807.90.0510, 6301.30.0010, 6301.30.0020, 6302.51.1000, 6302.51.2000, 6302.51.3000, 6302.51.4000, 6302.60.0010, 6302.60.0030, 6302.91.0005, 6302.91.0025, 6302.91.0045, 6302.91.0050, 6302.91.0060, 6303.11.0000, 6303.91.0010, 6303.91.0020, 6304.91.0020, 6304.92.0000, 6305.20.0000, 6306.11.0000, 6307.10.1020, 6307.10.1090, 6307.90.3010, 6307.90.4010, 6307.90.5010, 6307.90.8910, 6307.90.8945, 6307.90.9882, 6406.10.7700, 9404.90.1000, 9404.90.8040 and 9404.90.9505.

[6] Category 459pt.: all HTS numbers except 6115.19.8020, 6117.10.1000, 6117.10.2010, 6117.20.9020, 6212.90.0020, 6214.20.0000, 6405.20.6030, 6405.20.6060, 6405.20.6090, 6406.99.1505, 6406.99.1560.

[7] Category 469pt.: all HTS numbers except 5601.29.0020, 5603.94.1010, 6304.19.3040, 6304.91.0050, 6304.99.1500, 6304.99.6010, 6308.00.0010 and 6406.10.9020.

[8] Category 659–O: all HTS numbers except 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017, 6211.43.0010 (Category 659–C); 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090, 6505.90.8090 (Category 659–H); 6115.11.0010, 6115.12.2000, 6117.10.2030, 6117.20.9030, 6212.90.0030, 6214.30.0000, 6214.40.0000, 6406.99.1510 and 6406.99.1540 (Category 659pt.).

[9] Category 666pt.: all HTS numbers except 5805.00.4010, 6301.10.0000, 6301.40.0010, 6301.40.0020, 6301.90.0010, 6302.53.0010, 6302.53.0020, 6302.53.0030, 6302.93.1000, 6302.93.2000, 6303.12.0000, 6303.19.0010, 6303.92.1000, 6303.92.2010, 6303.92.2020, 6303.99.0010, 6304.11.2000, 6304.19.1500, 6304.19.2000, 6304.91.0040, 6304.93.0000, 6304.99.6020, 6307.90.9884, 9404.90.8522 and 9404.90.9522.

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,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.02–21705 Filed 8–26–02; 8:45 am]

BILLING CODE 3510–DR–S

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Request for Extension of Approval of Information Collection Requirements—Sound Levels for Toy Caps

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the June 13, 2002 **Federal Register** (67 FR 40689), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), to announce the agency's intention to seek an extension of approval for a period of three years from the date of approval by the Office of Management and Budget of information collection requirements in a regulation exempting certain toy caps from a banning rule. One comment was received on the **Federal Register** notice of June 13, 2002. However, the comment related to the decibel level requirements of the rule and not the reporting requirement subject to the Paperwork Reduction Act. Therefore, the Commission now announces that it has submitted to the Office of Management and Budget a request for extension of approval of that collection of information.

A regulation codified at 16 CFR 1500.18(a)(5) bans toy caps producing peak sound levels at or above 138 decibels (dB). Another regulation codified at 16 CFR 1500.86(a)(6) exempts toy caps producing sound levels between 138 and 158 dB from the banning rule if they bear a specified warning label and if firms intending to distribute such caps: (1) Notify the Commission of their intent to distribute such caps; (2) participate in a program to develop toy caps producing sound levels below 138 dB; and (3) report quarterly to the Commission concerning the status of their programs to develop caps with reduced sound levels.

The Commission requests extension of approval of the information collection requirements in the rule codified at 16 CFR 1500.86(a)(6) to obtain current and periodically-updated information from all manufacturers concerning the status of programs to reduce sound levels of toy caps. The Commission will use this information to monitor industry efforts to reduce the sound levels of toy caps, and to ascertain which firms are currently manufacturing or importing toy caps with peak sound levels between 138 and 158 db.

Additional Details About the Request for Extension of Approval of Information Collection Requirements

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Information Collection Requirements for Sound Levels for Toy Caps; 16 CFR 1500.86(a)(6)(ii) and (iii).

Type of request: Extension of approval.

Frequency of collection: One-time notification before beginning distribution; status report four times each year.

General description of respondents: Manufacturers and importers of toy caps.

Estimated number of respondents: 10.

Estimated average number of hours per respondent: 4 per year.

Estimated number of hours for all respondents: 40 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be submitted by September 26, 2002, to (1) Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340, and (2) the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at *cpsc-os@cpsc.gov.* Copies of this request for extension of approval of information collection requirements are available from Linda Glatz, management and program analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0416, extension 2226.

Dated: August 21, 2002.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 02–21696 Filed 8–26–02; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 26, 2002.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address Karen_F._Lee@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 21, 2002.

John D. Tressler,

Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Revision.

Title: Fast Response Survey System (FRSS) 83: Survey on Internet Access in U.S. Public Schools, Fall 2002.

Frequency: One time.

Affected Public: Public Schools.

Reporting and Recordkeeping Hour Burden: Responses: 1,200. Burden Hours: 396.

Abstract: This proposed survey will be the eighth in an annual series of surveys tracking access to the Internet and other advanced telecommunications in public schools and classrooms. The

National Center for Education Statistics has conducted a similar survey since 1994 using the Fast Response Survey System in order to monitor changes in this rapidly changing area. For example, school access to the Internet has increased from 35 percent in 1994 to 99 percent in 2001. Other topics to be covered include types of connections used by the school for connecting to the Internet, what staff provide software and hardware support in the school, and technologies and procedures used to prevent student access to inappropriate material on the Internet. The survey will go to a nationally representative stratified sample of 1,200 schools.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 2131. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivan.reese@ed.gov*. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her e-mail address *Kathy.Axt@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 02–21713 Filed 8–26–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Number DE–PS07–02ID14407]

Emerging Technology Deployment for the Chemical and Petroleum Industry Solicitation

AGENCY: Idaho Operations Office, DOE.

ACTION: Notice of availability of financial assistance solicitation.

SUMMARY: The U.S. Department of Energy (DOE) Idaho Operations Office (ID) is soliciting proposals for the installation and field-testing of technologies to reduce energy consumption, enhance economic competitiveness, and reduce environmental impacts, specifically in the Petroleum Refining and Chemicals industrial sectors. The objective of the solicitation is to find ways to mitigate the risk to industries of accepting and using emerging technologies developed by the industry initiatives. It is not the intent of DOE–ID to solicit research and development projects.

DATES: The issuance date of Solicitation Number DE–PS07–02ID14407 will be on August 20, 2002. The deadline for receipt of applications will be approximately on November 22, 2002.

ADDRESSES: The solicitation in its full text will be available on the Internet at the following URL address: *http://e-center.doe.gov.* The Industry Interactive Procurement System (IIPS) provides the medium for disseminating solicitations, receiving financial assistance applications and evaluating the applications in a paperless environment. Completed applications are required to be submitted via IIPS. An IIPS ''User Guide for Contractors'' can be obtained on the IIPS Homepage and then clicking on the ''Help'' button. Questions regarding the operation of IIPS may be e-mailed to the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Layne Isom, Contract Specialist, (208) 526–5633 *isomla@id.doe.gov.*

SUPPLEMENTARY INFORMATION: This solicitation is commissioned on behalf of the DOE's Office of Industrial Technologies (OIT) Best Practices Program, which develops and provides energy-saving products, services, and technologies to industry. Additional information about the Best Practices Program can be found on the Web site *http://www.oit.doe.gov/bestpractices.*

DOE anticipates making 3 to 10 cooperative agreement awards with total estimated DOE funding ranging from $3 to 10 million dollars, depending on final funding levels and the quality of proposals received. No individual awards will exceed $1 million dollars or a timeframe of three years. The cooperative agreements will be awarded in accordance with DOE Financial Assistance Regulations of Title 10 of the Code of Federal Regulations, Chapter II, Subchapter H, Part 600. Award of a cooperative agreement under this solicitation does not commit the Government to fund any follow-on activities. Successful applicants will be required to submit quarterly, annual, and final reports to DOE and attend annual program review meetings. Applicants who are selected will cost-share a minimum of 50% of the project total cost. The statutory authority for the program is the Federal Non-Nuclear Energy Research and Development Act of 1974 (Pub. L. 93–577). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.086, Conservation Research and Development.

Issued in Idaho Falls on August 20, 2002.

R. J. Hoyles,

Director, Procurement Services Division.

[FR Doc. 02–21741 Filed 8–26–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Thursday, September 12, 2002, 6 p.m.–9:30 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, TN.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, PO Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–5333 or e-mail: *halseypj@oro.doe.gov.*

SUPPLEMENTARY INFORMATION: *Purpose of the Board:* The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

- An *Overview of the Lifecycle Baseline* will be provided by a representative from the Department of Energy, Oak Ridge Operations Office
- Question and Answer Period
- Comments from the Deputy Designated Federal Officer and Ex-officios
- Public Comment Period
- Motions and Recommendations for Consideration for Board Approval
- Reports from the Environmental Restoration, Stewardship, and Waste Management Committees concerning the Annual Work Plans
- Additions to the Agenda
- Public Comment Period

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the specified time period.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Center at 475 Oak Ridge Turnpike, Oak Ridge, TN between 8 a.m. and 5 p.m. Monday through Friday, or by writing to Pat Halsey, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling her at (865) 576–4025.

Issued at Washington, DC, on August 21, 2002.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 02–21740 Filed 8–26–02; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC02–11–001, FERC Form 11]

Commission Information Collection Activities; Comment Request; Submitted for OMB Review

August 20, 2002.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and reinstatement. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of April 15, 2002 (67 FR 18183) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by September 22, 2002.

ADDRESSES: Address comments to the Office of Management and Budget, Office of Information ad Regulatory Affairs, Attention: Federal Energy Regulatory Commission, Desk Officer, 725 17th Street, NW., Washington, DC 20503. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Chief Information Officer, CI–1, Attention: Michael Miller, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those filing electronically do not need to make a paper filing.

For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE. Washington, DC 20426 and should refer to [Docket No. IC02–11–001].

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website at *www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments. User assistance for electronic filings is available at 202–208–0258 or by e-mail to *efiling@ferc.fed.us*. Comments should not be submitted to the e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the FERRIS link. User assistance for FERRIS is available at 202–502–8222, or by e-mail to *contentmaster@ferc.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)502–8415, by fax at (202)208–2425, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Description

The information collection submitted for OMB review contains:

1. *Collection of Information*: FERC Form 11 ''Natural Gas Monthly Quarterly Statement of Monthly Data''.

2. *Sponsor*: Federal Energy Regulatory Commission.

3. *Control No.*: OMB No. 1902–0032.

On May 19, 1999, the Office of Management and Budget (OMB) approved the reporting requirements in FERC Form 11 for a term of three years, the maximum period permissible under the Paperwork Reduction Act before an information collection must be resubmitted for approval. As noted above, this notice seeks public comments in order to recertify the FERC Form 11 reporting requirements. The initial comment period in the **Federal Register** noted above, extended past the expiration date for the FERC Form 11. Because of this lapse, the Commission seeks to have Form 11 reinstated and approved for an additional three years. There are no changes to the existing collection and increases in the reporting burden are for adjustments only. This is a mandatory information collection requirement and the Commission does not consider the information to be confidential.

4. *Necessity of the Collection of Information*: Submission of the information is necessary for the Commission to carry out its responsibilities in implementing the statutory provisions of sections 10(a) and 16 of the Natural Gas Act (NGA) 15 U.S.C. 717–717w and the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432). The NGA and the NGPA authorize the Commission to prescribe rules and regulations requiring natural gas pipeline companies whose gas was transported or stored for a fee and exceeded 50 million dekatherms in each of the three previous calendar years to submit FERC Form 11.

The information collected on the Form 11 allows the Commission to follow developing trends on a pipeline's system. In particular, gas revenues and quantities of gas by rate schedule, transition costs from upstream pipelines and reservation charges are reported to the Commission for review. This information is used to assess the reasonableness of the various revenues and costs of service items claimed in rate filings. The information also provides the Commission with a view of the status of pipeline activities, allows revenue comparisons between pipelines, and provides financial status of regulated pipelines. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR 260.3 and sections 385.2011.

5. *Respondent Description*: The respondent universe currently comprises on average 58 companies subject to the Commission's jurisdiction. Note: In the initial notice, the Commission indicated 55 respondents but further evaluation has

determined the number of respondents has increased to 58.

6. *Estimated Burden*: 696 total hours, 58 respondents, 4 responses annually, 3hours per response (average).

7. *Estimated Cost Burden to Respondents*: Estimated cost burden to respondents: 696 hours / 2,080 hours per year x $117,041 per year = $39,164. The cost per respondent is equal to $ 675.

Statutory Authority: Sections 10(a) and 16 of the Natural Gas Act (NGA) 15 U.S.C. 717–717w and the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301–3432).

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21719 Filed 8–26–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC02–510–001, FERC–510]

Commission Information Collection Activities; Comment Request; Submitted for OMB Review

August 20, 2002.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the Federal Energy Regulatory Commission (Commission) has submitted the information collection described below to the Office of Management and Budget (OMB) for review and extension of the current expiration date. Any interested person may file comments directly with OMB and should address a copy of those comments to the Commission as explained below. The Commission received no comments in response to an earlier **Federal Register** notice of May 31, 2002 (67 FR 38086) and has made this notation in its submission to OMB.

DATES: Comments on the collection of information are due by September 22, 2002.

ADDRESSES: Address comments on the collection of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Federal Energy Regulatory Commission Desk Officer, 725 17th Street, NW., Washington, DC 20503. A copy of the comments should also be sent to the Federal Energy Regulatory Commission, Office of the Chief Information Officer, CI–1, Attention: Michael Miller, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those persons filing electronically do not need to make a paper filing. For paper filings, such comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. IC02–510–001.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's website at *www.ferc.gov* and click on ''Make an E-filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's E-mail address upon receipt of comments. User assistance for electronic filings is available at 202–208–0258 or by e-mail to *efiling@ferc.fed.us*. Comments should not be submitted to the e-mail address.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the FERRIS link. User assistance for FERRIS is available at 202–502–8222, or by e-mail to *contentmaster@ferc.fed.us*.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202)502–8415, by fax at (202)208–2425, and by e-mail at *michael.miller@ferc.gov*.

SUPPLEMENTARY INFORMATION:

Description

The information collected submitted for OMB review contains:

1. *Collection of Information*: FERC–510 Application for Surrender of a Hydropower License''.

2. *Sponsor*: Federal Energy Regulatory Commission.

3. *Control No.*: 1902–0068.

The Commission is now requesting that OMB approve a three-year extension of the current expiration date, with no changes to the existing collection. There is an adjustment only to the reporting burden. These are mandatory information collection requirements and the Commission does not consider the information to be confidential.

4. *Necessity of the Collection of Information*: Submission of the information is necessary to enable the Commission to carry out its responsibilities in implementing the statutory provisions of part 1, sections 4(e), 6 and 13 of te Federal Power Act, 16 U.S.C. 797(e), 799 and 806. Section 4(e) gives the Commission the authority to issue licenses for the purpose of constructing, operating and maintaining dams, water conduits, reservoirs, powerhouses, transmission lines or other project works necessary or convenient for developing and improving navigation, transmission and utilization of power over which Congress has jurisdiction. Section 6 gives the Commission the authority to prescribe the conditions of the licenses including the revocation and/or surrender of the license. Section 13 defines the Commission's authority to delegate time periods for when a license must be terminated if project construction has not begun. Surrender of a license may be desired by a licensee when a licensed project is retired or not constructed. The information is collected by FERC in the form of a written application for surrender of a hydropower license, which is then used by Commission staff to determine the broad impact of such a surrender. FERC carefully reviews the prepared application, solicits public and agency comments through the issuance of a public notice, and prepares the Surrender of License Order. The order is the result of an analysis of the information produced, *i.e.*, economic, environmental, etc. which is then examined to determine if the application is warranted. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR sections 6.1 through 6.4.

5. *Respondent Description*: The respondent universe currently comprises 8 companies (on average) subject to the Commission's jurisdiction.

6. *Estimated Burden*: 80 total hours, 8 respondents, 1 response per respondent, 10 hours per response (average).

7. *Estimated Cost Burden to respondents*: 80 hours / 2080 hours per years x $117,041 per year = $4,502. The cost per respondent is equal to $563.00.

Statutory Authority : Sections 4(e), 6 and 13 of te Federal Power Act, 16 U.S.C. 797(e), 799 and 806.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21720 Filed 8–26–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–103–000]

GWF Energy LLC and PSEG Energy Technologies, Inc.; Notice of Filing

August 19, 2002.

Take notice that on August 9, 2002, GWF Energy LLC and PSEG Energy Technologies Inc. tendered for filing an application under section 203 of the Federal Power Act for approval of an intra-corporate reorganization.

Any person desiring to intervene or to protest this filing should file 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). 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. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659. Protests and interventions 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 under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: August 28, 2002.

Magalie R. Salas,

Secretary.

[FR Doc. 02–21717 Filed 8–26–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–31–000]

Iroquois Gas Transmission System; Notice of Site Visit

August 20, 2002.

On August 28, 2002, the staff of the Office of Energy Projects (OEP) will conduct a visit of the Proposed Site and the Vail Road Alternative Site for the Brookfield Compressor Station proposed for construction by Iroquois Gas Transmission System (Iroquois). Both compressor station sites are located in the Town of Brookfield, Fairfield County, Connecticut. Representatives of Iroquois will accompany the OEP staff. All interested parties may meet at 1 p.m. at the proposed compressor station site located at 60 High Meadow Road in Brookfield. Attendees must provide their own transportation.

Anyone interested in additional information on the site visit may contact the Commission's Office of External Affairs at 1–866–208–FERC.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21716 Filed 8–26–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–121–000]

Occidental Chemical Corporation, Complainant, v. PJM Interconnection, L.L.C. and Delmarva Power & Light Company, Respondents; Notice of Complaint

August 20, 2002.

Take notice that on August 16, 2002, Occidental Chemical Corporation (Occidental), filed a Complaint Requesting Fast Track Processing against PJM Interconnection, L.L.C. (PJM), and Delmarva Power & Light Company (Delmarva).

Copies of the filing were served upon PJM, Delmarva, and the Delaware Public Service Commission. Occidental is not aware of any other parties that may be expected to be affected by the complaint.

Any person desiring to be heard or to protest this filing should file 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). 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. The answer to the complaint and all comments, interventions or protests must be filed on or before September 3, 2002. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, call (202)502–8222 or for TTY, (202) 208–1659. The answer to the complaint, comments, protests and interventions 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 under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21718 Filed 8–26–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protest

August 20, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application*: Original License (1.5 MW).

b. *Project No.*: P–11485–001.

c. *Date Filed*: September 04, 2001.

d. *Applicant*: Midwest Hydro, Inc.

e. *Name of Project*: Delhi Milldam Hydroelectric Project.

f. *Location*: Located on the South Fork Maquoketa River near Delhi, in Delaware County, Iowa. There are no Federal lands located within the project boundary.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact*: Mr. Loyal Gake, P.E., Midwest Hydro, Inc., 116 State Street, P.O.Box 167, Neshkoro, WI 54960, (920) 293–4628.

i. *FERC Contact*: John Ramer, (202) 502–8969 or E-Mail *John.Ramer@ferc.gov*.

j. *Deadline for filing motions to intervene and protest*: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests and interventions 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 under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Pursuant to Order No. 619, [1] the Federal Energy Regulatory Commission (FERC) now accepts certain ''qualified documents'' via the Internet in lieu of paper filing. ''Qualified documents'' may be submitted electronically only by accessing the E-Filing link at *www.ferc.gov*. The Commission does not accept comments or other documents related to proceedings before the Commission via e-mail. Comments received via e-mail are not placed in the public record.

''Qualified documents'' that may by submitted electronically in lieu pf paper and the procedures for e-filing ''qualified documents'' are described in FERC's *User Guide for Electronic Filing of Qualified Documents,* which can be accessed via FERC's website *www.ferc.gov/e-filing*. For assistance with filing qualified documents electronically, you can contract FERC's public reference room during normal business hours, 8:30 am to 5:00 pm Eastern time, by phone at (202) 502–8371 or by e-mail at *publicreferenceroom@ferc.fed.us*.

k. *Status of environmental analysis:* This application is not ready for environmental analysis at this time.

l. *The proposed Delhi Milldam Hydroelectric Project would consist of the following existing facilities:* (1) An existing 702-foot-long and about 59-foot-high dam, with an 86-foot-long ogee type spillway and 25-foot-wide by 17-foot-high vertical sluice gates; (2) an existing 880-acre reservoir having a negligible storage capacity at elevation 892 feet mean sea level (msl); (3) a 61-foot-long by approximately 51-foot-wide powerhouse containing two open-flume Francis turbines each with a maximum hydraulic capacity of 276 cubic feet per second (cfs) and two generators each rated at 750 kilowatts (kW) for a total installed capacity of 1500 kW; and (4) appurtenant facilities, such as, governors and electric switchgear. No transmission line exists, although a commercial sub-station is located within 100 feet of the powerhouse. The dam and existing project facilities are owned by Lake Delhi Recreation Association, Inc.

The Delhi Milldam Project will include refurbishing each of the existing inoperable turbine/generator sets. New governors, electric switchgear, and controls will be installed, including a programmable control system which will automatically operate the project with capability of remote surveillance and operation. No civil work is proposed. The project's generating capacity will be 1500 kW and will generate an average of about 2.96 million kilowatthours annually.

m. A copy of the application is available for inspection and reproduction during normal business hours (8:30 a.m. to 5 p.m. Eastern time) at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2–A, Washington, DC 20426, or by calling (202)502–8371. In addition, the application may be viewed and/or printed via the internet through FERC's Home Page (*http://www.ferc.gov*). From FERC's Home Page on the internet, the application and other filings and issuances regarding this application are available in the Federal Energy Regulatory Records Information System (FERRIS). To access this information in FERRIS, for the Delhi Milldam Hydroelectric Project license application, enter the application's docket number (*i.e.*, P–11485) and sub-docket number (*i.e.*, 001) where specified. User assistance is available for FERRIS and FERC's website, during normal business hours, from our Help line at (202) 502–8222 or the Public Reference Room at (202) 502–8371. A copy of the application is also available for inspection and reproduction from the applicant at the address in item h. above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Procedural schedule and final amendments*: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Milestone Activity and Date

Notice Of Application Accepted For Filing and Soliciting Motions To Intervene And Protests, August 2002
Acceptance Letter w/ Additional Information Request, August 2002
Issue Scoping Document, August 2002
Notice Application Ready For EA (REA) and Soliciting Comments and Recommendations, February 2003
Notice Of Availability Of EA, April 2003
Order Issuing The Commission's Decision On The Application, May 2003

Final amendments to the application must be filed with the Commission no later than 45 days from the issuance date of the notice that the application is REA and soliciting comments and recommendations. As noted in item k. above, the application is *not* ready for environmental analysis now, and we are *not* issuing a REA notice now.

p. With this notice, we are initiating consultation with the *Iowa State Historic Preservation Officer (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

q. *This notice also consists of the following standard paragraphs:*

Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

Filing and Service of Responsive Documents—All filings must (1) bear in all capital letters the title ''Protest'' or ''Motion to Intervene;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each

[1] III FERC Stats. & Regs., Regulations Preambles ¶ 31,107.

representative of the applicant specified in the particular application.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21722 Filed 8–26–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of FERC Staff Participation at MISO-SPP Tariff Convergence Technical Conference

August 20, 2002.

The Federal Energy Regulatory Commission hereby gives notice that on August 27–28, 2002, members of its staff will attend the MISO-SPP tariff convergence technical conference, concerning the development of a common open access transmission tariff for the Midwest Independent Transmission System Operator, Inc. (MISO) and Southwest Power Pool, Inc. (SPP). The staff's attendance is part of the Commission's ongoing outreach efforts. The meeting is sponsored by MISO and SPP, and will be held on August 27–28, 2002, beginning at 9 a.m. on August 27, 2002 at the Renaissance St. Louis Airport, 9801 Natural Bridge Road, St. Louis, MO 63134. This technical conference is open to all interested stakeholders. This technical conference may discuss matters at issue in Docket No. RM01–12–000, Remedying Undue Discrimination Through Open Access Transmission Service and Standard Electricity Market Design, and in Docket No. ER02–1420–000, Midwest Independent Transmission System Operator, Inc.

For more information, contact Mark Volpe, Director of Regulatory Affairs, Midwest Independent Transmission System Operator at (317) 249–5423 or Michael McLaughlin, Director, Division of Tariffs and Rates-Central, Office of Markets, Tariffs and Rates, Federal Energy Regulatory Commission at (202) 502–8436 or *michael.mclaughlin@ferc.gov*.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–21721 Filed 8–26–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7268–2]

Contractor and Subcontractor Access to Confidential Business Information Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized prime contractors and subcontractors access to information that has been, or will be, submitted to EPA under sections 112 and 114 of the Clean Air Act (CAA). Some of the information may be claimed to be confidential business information (CBI) by the submitter.

EFFECTIVE DATES: Access to confidential data submitted to EPA will occur no sooner than September 6, 2002.

FOR FURTHER INFORMATION CONTACT: Roberto Morales, Document Control Officer, Office of Air Quality Planning and Standards (C404–02), EPA, Research Triangle Park, North Carolina 27711, (919) 541–0880.

SUPPLEMENTARY INFORMATION: The EPA is issuing the notice to inform all submitters of information under sections 112 and 114 of the CAA that EPA may provide to the contractors and subcontractors listed below access to those materials on a need-to-know basis:

1. Prime Contractor

Environmental Consulting and Research, Inc. (EC/R), 2327 Englert Drive, Suite 100, Durham, NC 27713. Contract 68D01055.

2. Prime Contractor

Environmental Consulting and Research, Inc. (EC/R), 2327 Englert Drive, Suite 100, Durham, NC 27713. Contract 68D01071.

Subcontractors: ICF, Inc., Cadmus, Menzie-Cura, TRJ (Ted Johnson), SBG (Susan B. Goldhabaer).

3. Prime Contractor

Environmental Consulting and Research, Inc. (EC/R), 2327 Englert Drive, Suite 100, Durham, NC 27713. Contract 68D01076.

Subcontractors: ICF, Inc., Eastern Research Group (ERG), Pacific Environmental Services (PES), MCNC, TRJ (Ted Johnson), SBG (Susan B. Goldhabaer), Jim Capel.

4. Prime Contractor

Eastern Research Group, Inc. (ERG), 110 Hartwell Avenue, Lexington, MA 02173. Contract 68D01078.

Subcontractors: Research Triangle Institute (RTI), EC/R, Inc., Alpha-Gamma Technologies, SKT Consulting Services, Inc..

5. Prime Contractor

Eastern Research Group, Inc. (ERG), 110 Hartwell Avenue, Lexington, MA 02173. Contract 69D01081.

6. Prime Contractor

ICF, Inc., 9300 Lee Highway, Fairfax, VA 22031. Contract 68D01052.

Subcontractors: EC/R, Inc., Alpha-Gamma Technologies, Inc., HeiTech Services, Inc., Dr. Deborah Amaral, Jim Capel, Douglas Crawford Brown, TRJ (Ted Johnson), Dr. Bradford Lyon, Dr. Thomas McKone.

7. Prime Contractor

Research Triangle Institute, 3040 Cornwallis Road, Research Triangle Park, NC 27709. Contract 68D01079.

Subcontractors: Caldwell Environmental, North State Engineering, Inc., Razor Environmental.

8. Prime Contractor

Pacific Environmental Services (PES), 5001 South Miami Boulevard, Research Triangle Park, NC 27709. Contract 68D01077.

Subcontractors: Alpha Gamma Technologies, SKT Consulting Services, Inc., Bennet King Environmental Consultant, Inc..

9. Prime Contractor

Research Triangle Institute (RTI), 3040 Cornwallis Road, Research Triangle Park, NC 27709. Contract 68D01073.

Subcontractor: The Kervic Company.

The contractors and subcontractors will provide technical support to the Office of Air Quality Planning and Standards in source assessment or with a source category survey and proceed through development of standards or control techniques guidelines, risk assessments, and national air toxics assessments.

In accordance with 40 CFR 2.301(h), EPA has determined that the above listed contractors and subcontractors require access to CBI submitted to EPA under sections 112 and 114 of the CAA in order to perform work satisfactorily under the above noted contracts. The contractors' and subcontractors' personnel will be given access to information submitted under sections 112 and 114 of the CAA. The contractors' personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All contractor and

subcontractor access to CAA CBI will take place at the contractors' or subcontractors' facilities. The contractors and subcontractors will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractors and subcontractors have access.

Clearance for access to CAA CBI is scheduled to expire on September 30, 2006 under contracts 68D01055, 68D01071, 68D01076, 68D01078, 68D01081, 68D01052, 68D01079, 68D01077, and 68D1073.

Dated: August 14, 2002.

Robert Brenner,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 02–21751 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7268–5]

Effluent Guidelines Program Plan for 2002/2003

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Effluent Guidelines Program Plan.

SUMMARY: Today's document announces EPA's Effluent Guidelines Program Plan for 2002/2003, which describes the Agency's ongoing effluent guidelines development efforts. Under the Clean Water Act (CWA), EPA establishes national regulations, termed ''effluent guidelines,'' to reduce pollutant discharges from industrial facilities to surface waters and publicly owned treatment works (POTWs). The Agency published a proposed plan on June 18, 2002 (67 FR 41417), and public comments on the proposed plan are discussed in today's notice. In addition, to prepare for the Effluent Guidelines Program Plan to be published in 2004 (for years 2004/2005), the Agency invites the public to identify existing effluent guidelines that EPA should consider revising and to identify any industrial categories for which effluent guidelines should be promulgated.

EFFECTIVE DATE: September 26, 2002.

ADDRESSES: The public record for this notice has been established under docket number W–01–12. It is available for review in the EPA Water Docket, which is located in room B135 EPA West, 1301 Constitution Avenue, N.W. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. To schedule an appointment to see Docket materials, please call (202) 566–2426. The EPA public information regulation (40 CFR part 2) provides that a reasonable fee may be charged for copying. Recommendations on possible effluent guideline revisions or new categories can be made to Patricia Harrigan by e-mail at *harrigan.patricia@epa.gov,* or Jan Matuszko by e-mail at *matuszko.jan@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Patricia Harrigan at (202) 566–1666 or *harrigan.patricia@epa.gov,* or Jan Matuszko at (202) 566–1035 or *matuszko.jan@epa.gov.*

SUPPLEMENTARY INFORMATION: *Outline of this Notice*

I. Regulated Entities
II. Legal Authority
III. Effluent Guidelines Program Background
IV. Effluent Guidelines Program Plan for 2002/2003
V. Future of the Effluent Guidelines Program
A. A Strategy for National Clean Water Industrial Regulations
B. Solicitation of Stakeholder Recommendations
VI. Public Comments

I. Regulated Entities

Today's Effluent Guidelines Program Plan for 2002/2003 does not contain regulatory requirements. It identifies industrial categories for which EPA expects to develop or revise effluent limitations guidelines and standards (''effluent guidelines''), and sets forth the schedules for those rulemakings. Entities that could be affected by regulations developed under the schedules set forth in this Plan are shown in Table 1 below. One commenter stated that the Aquatic Animal Production effluent guideline may also affect federal- and state-run fish hatchery facilities. EPA agrees with the comment and the table has been updated to reflect this potential impact.

TABLE 1.—ENTITIES POTENTIALLY AFFECTED BY FORTHCOMING EFFLUENT GUIDELINES REGULATIONS

Category of entity	Examples of potentially affected entities
Industrial, Commercial, or Agricultural.	Metal Products and Machinery (including electroplating, metal finishing); builders and developers engaged in construction, development, and redevelopment; Feedlots (swine, poultry, dairy and beef cattle); Aquatic Animal Production (fish hatcheries and farms); and Meat Products (slaughtering, rendering, packing, processing of red meat and poultry); and Pulp and Paper (dissolving mills).
Federal Government	Metal Products and Machinery (including electroplating, metal finishing); builders and developers engaged in construction, development, and redevelopment; Aquatic Animal Production.
State and Tribal Government	Metal Products and Machinery (including electroplating, metal finishing); builders and developers engaged in construction, development, and redevelopment; Aquatic Animal Production.
Local Government	Metal Products and Machinery (including electroplating, metal finishing); builders and developers engaged in construction, development, and redevelopment.

II. Legal Authority

Today's document is published under the authority of section 304(m) of the CWA, 33 U.S.C. 1314(m).

III. Effluent Guidelines Program Background

The CWA directs EPA to promulgate effluent limitations guidelines and standards for categories or subcategories of industrial point sources that, for most pollutants, reflect the level of pollutant control attained by the best available technologies economically achievable. *See* CWA sections 301(b)(2), 304(b), 306, 307(b), and 307(c). For point sources that introduce pollutants directly into the Nation's waters (*i.e.*, direct dischargers), the limitations promulgated by EPA are implemented through National Pollutant Discharge Elimination System (NPDES) permits. *See* CWA sections 301(a), 301(b), and 402. For sources that discharge to POTWs (*i.e.*, indirect dischargers), EPA promulgates pretreatment standards that apply directly to those sources and are enforced by POTWs, which are backed by State and Federal authorities. See CWA sections 307(b) and (c).

Section 304(m) requires EPA to publish a Plan every two years that consists of three elements. First, under section 304(m)(1)(A), EPA is required to establish a schedule for the annual review and revision of existing effluent guidelines in accordance with section 304(b). Section 304(b) applies to effluent limitations guidelines for direct

dischargers and requires EPA to revise such regulations as appropriate. Second, under section 304(m)(1)(B), EPA must identify categories of sources discharging toxic or nonconventional pollutants for which EPA has not published effluent limitations guidelines under section 304(b)(2) or new source performance standards (NSPS) under section 306. Finally, under section 304(m)(1)(C), EPA must establish a schedule for the promulgation of effluent limitations guidelines under section 304(b)(2) and NSPS for the categories identified under subparagraph (B) not later than three years after being identified in the section 304(m) plan. Section 304(m) does not apply to pretreatment standards for indirect dischargers, which EPA promulgates pursuant to sections 307(b) and 307(c) of the CWA.

On October 30, 1989, Natural Resources Defense Council, Inc., and Public Citizen, Inc., filed an action against EPA in which they alleged, among other things, that EPA had failed to comply with CWA section 304(m). The Plaintiffs and EPA agreed to a settlement of that action in a Consent Decree entered on January 31, 1992. The Consent Decree, as modified, established a schedule by which EPA will propose and take final action for eleven point source categories identified by name in the Decree, *see* Consent Decree, and for eight other point source categories identified only as new or revised rules, numbered 5 through 12. *See* Consent Decree pars. 2(a), 4(a), and 5(a). The Decree also established deadlines for EPA to complete studies of eight identified and three unidentified point source categories. *See* Consent Decree, par. 3(a).

The last date for EPA action under the Decree, as modified, is June 2004. The Decree provides that the foregoing requirements shall be set forth in EPA's section 304(m) plans. *See* Consent Decree, pars. 3(a), 4(a), 5(a). The Consent Decree provides that section 304(m) plans issued under the Decree that are consistent with its terms shall satisfy EPA's obligations under section 304(m) with respect to the publication of such plans. *See* Consent Decree, par. 7(b).

IV. Effluent Guidelines Program Plan for 2002/2003

Today's Plan describes EPA's current effluent guidelines rulemaking activities. Table 2 identifies the new or revised effluent guidelines currently under development, and the schedules for proposal and final action.

TABLE 2.—EFFLUENT GUIDELINES CURRENTLY UNDER DEVELOPMENT

Category	Federal register citation (date) or deadline for proposal	Final action date
Metal Products and Machinery	66 FR 424 (Jan. 3, 2001)	12/31/02
Concentrated Animal Feeding Operations (poultry, swine, beef, and dairy subcategories).	66 FR 2959 (Jan. 12, 2001)	12/15/02
Meat and Poultry Products	67 FR 8582 (Feb. 25, 2002)	12/03
Construction and Development	67 FR 42644 (Jun. 24, 2002)	03/04
Aquatic Animal Production	08/14/02	06/04
Pulp, paper, and paperboard (dissolving kraft (Subpart A) and dissolving sulfite (Subpart D)).	58 FR 44078 (Dec. 17, 1993)	09/04

In previous Effluent Guideline Program Plans, EPA indicated its intention to take final action on its 1993 proposal to revise effluent guidelines for eight subcategories of the pulp, paper, and paperboard industry (Subparts C and F through L), referred to as Phase II. At this time, however, EPA is not planning to revise effluent guidelines for these subcategories for a variety of reasons. It appears that more stringent conventional pollutant limitations for these subcategories would not pass the Best Conventional Pollutant Control Technology ''cost-reasonableness'' test, which is explained at 51 *FR* 24974 (July 1986) for at least five and possibly up to seven of the eight subcategories, depending on which option is selected. In addition, EPA does not see the need at this time to promulgate national categorical best management practices for these subcategories. EPA expects that permitting authorities will continue to impose best management practices on a case-by-case basis, as appropriate, under 40 CFR 122.44(k).

As with all currently regulated industries, EPA will make the decision to move forward with data collection and analysis for all of these subparts (including possible guidelines revisions) following a broader priority-setting process the Agency is developing for its future effluent guidelines planning evaluations. EPA received only one comment on this issue, and the commenter supported the Agency's proposed decision not to revise effluent guidelines for these subcategories at this time.

V. Future of the Effluent Guidelines Program

The 1992 Consent Decree will terminate in June, 2004 when EPA takes final action on the last effluent guideline covered in the Decree.

A. A Strategy for National Clean Water Industrial Regulations

The termination of the Consent Decree offers EPA, interested stakeholders, and the public the chance to evaluate the existing program and to consider how national industrial regulations can best meet the needs of the broader National Clean Water Program in the years ahead. EPA is drafting a strategy setting forth a planning process by which EPA will conduct the review of national effluent guidelines and establish priorities to address the water quality challenges of the 21st century.

Integral to any planning process is the need to efficiently allocate scarce resources among competing priorities. This is particularly the case for EPA, which has the responsibility to assure that both public and private funds for regulatory compliance are spent to address the highest risks to human health and the environment. EPA also believes that its process for setting priorities must be transparent. In keeping with these goals, the draft strategy will describe how EPA will work with other interested parties to assess the risks posed by industrial discharges and to identify the best approach to address these risks (*i.e.*, through effluent guidelines or other mechanisms). All of the commenters on the proposed Effluent Guidelines Program Plan that addressed this matter supported EPA's goal to develop a strategy for planning for the future of the effluent guidelines program, and encouraged EPA to engage a broad range of stakeholders in the planning process.

EPA expects that development and implementation of this strategy will require a significant Agency investment in research, planning, and outreach. EPA's goal is to publish this draft strategy later this year, and the Agency will seek to engage a broad range of interested parties in a discussion on the draft strategy. EPA intends to use the process described in the strategy to identify additional effluent guidelines to address in the future.

B. Solicitation of Stakeholder Recommendations

Several commenters on the proposed plan suggested specific existing guidelines that the Agency consider as candidates for revision, and suggested that the Agency consider specific industrial categories which may not have effluent guidelines as candidates for guideline development. Several commenters proposed criteria that EPA could use in deciding whether to revise an existing effluent guideline or to develop a new guideline, including consideration of specific pollutants of concern. A few commenters also suggested that the Agency consider alternate approaches to guideline development, such as assisting in the development of local limits to control pollutant discharges, and shifting its approach to address violations of water quality standards. EPA will consider these suggestions as input to the first step in the planning process for the Effluent Guidelines Program Plan for 2003/2004.

As recommended by the Effluent Guidelines Task Force, the Agency believes that an important first step in the planning process is to consult with NPDES-authorized states, pretreatment control authorities, and professional associations to obtain their recommendations pertaining to revising existing effluent guidelines and targeting industries for new guidelines. These stakeholders can help to identify water quality concerns related to industrial categories as well as changes in industries which affect the administration and effectiveness of existing regulations. EPA recognizes that there are other stakeholders who may have concerns or data indicating the need for new or revised regulations. Therefore, to prepare for the Effluent Guidelines Program Plan to be published in 2004 (for years 2004/2005), the Agency invites the public to identify and provide supporting data and/or rationales on existing effluent guidelines that EPA should consider revising, or on any industrial categories for which the Agency should consider developing new effluent guidelines.

VI. Public Comments

EPA accepted public comments on the Proposed Effluent Guidelines Program Plan for 2002/2003 through July 18, 2002. The Agency received nine comments from a variety of commenters including industry, metropolitan sewerage agencies, a trade association, environmental groups, and a federal agency. Many of the comments received have been discussed in the text of today's notice. The administrative record for today's notice includes a complete set of all of the comments submitted, as well as the Agency's responses.

Dated: August 21, 2002.

G. Tracy Mehan, III,

Assistant Administrator for Water.

[FR Doc. 02–21750 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0053; FRL–7196–4]

Approval of Test Marketing Exemption for a Certain New Chemical

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–02–7. The test marketing conditions are described in the TME application and in this notice.

DATES: Approval of this TME is effective August 21, 2002.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Adella Watson, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–9364; e-mail address: watson.adella@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed in particular to the chemical manufacturer and/or importer who submitted the TME to EPA. This action may, however, be of interest to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

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

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

2. *In person*. The Agency has established an official record for this action under docket control number OPPT–2002–0053. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the EPA Docket Center, Rm., B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

III. What is the Agency's Authority for Taking this Action?

Section 5(h)(1) of TSCA and 40 CFR 720.38 authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and

permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

IV. What Action is the Agency Taking?

EPA approves the above-referenced TME. EPA has determined that test marketing the new chemical substance, under the conditions set out in the TME application and in this notice, will not present any unreasonable risk of injury to health or the environment.

V. What Restrictions Apply to this TME?

The test market time period, production volume, number of customers, and use must not exceed specifications in the application and this notice. All other conditions and restrictions described in the application and in this notice must also be met.

TME–02–7

Date of Receipt: June 20, 2002.

Notice of Receipt: July 9, 2002 (67 FR 45504), (FRL–7187–9).

Applicant: ITW Devcon.

Chemical: (G) Isocyanate - terminated polyurethane prepolymer.

Use: (G) Oil resistant industrial coating.

Production Volume: CBI.

Number of Customers: CBI.

Test Marketing Period: 365 days, commencing on first day of commerical manufacture.

The following additional restrictions apply to this TME. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

VI. What was EPA's Risk Assessment for this TME?

EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

VII. Can EPA Change Its Decision on this TME in the Future?

Yes. The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: August 21, 2002.

Rebecca S. Cool,

Acting Chief, New Chemicals Prenotice Branch, Office of Pollution Prevention and Toxics.

[FR Doc. 02–21755 Filed 8–26–02; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Renewable Energy Exports Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank)

SUMMARY: The Renewable Energy Exports Advisory Committee was established by the Board of Directors at Ex-Im Bank to assist the Bank in meeting its objective of supporting U.S. exporters in renewable energy industries. In addition, the goal is to seek advice from the private sector about best practices when addressing renewable energy exports.

TIME AND PLACE: Monday, September 30, 2002, at 9 a.m. to 2 p.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW, Washington, DC 20571.

AGENDA: Agenda items include presentations from panels composed of experts from Congress, the U.S. Government, Renewable Energy Industry, and interested parties.

PUBLIC PARTICIPATION: The meeting will be open to public participation. Members of the public may also file written statement(s) on how Ex-Im Bank can increase its support for renewable energy exports no later than September 20. Please send comments to the attention of Nichole Westin. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to September 20, 2002, Nichole Westin, Room 1257, 811 Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3542, Fax: (202) 565–3548 or TDD (202) 565–3377.

FURTHER INFORMATION: For further information, contact Nichole Westin, Room 1257, 811 Vermont Ave., NW., Washington, DC 20571, (202) 565–3542.

Peter Saba,

General Counsel.

[FR Doc. 02–21701 Filed 8–26–02; 8:45 am]

BILLING CODE 6690–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

Date and Time: The special meeting of the Board was held at the offices of the Farm Credit Administration in McLean, Virginia, on August 20, 2002, from 2:30 p.m. until such time as the Board concluded its business.

FOR FURTHER INFORMATION CONTACT: Jeanette C. Brinkley, Acting Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board was closed to the public. The matter considered at the meeting was:

***Closed Session**

New Business

- Letter from Treasury Department.

Dated: August 23, 2002.

Jeanette C. Brinkley,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 02–21951 Filed 8–23–02; 3:47 pm]

BILLING CODE 6705–01–P

* Session closed—exempt pursuant to 5 U.S.C. 552b(c)(9)(A).

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting Notice

PREVIOUSLY ANNOUNCED DATE & TIME: Wednesday, August 28, and Thursday, August 29, 2002, 10 a.m. Public hearing on Electioneering Communications: Notice of Proposed Rulemaking. The starting time has been changed to 9:30 a.m.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, August 29, 2002, open meeting scheduled for 10 a.m. The starting time has been changed to 2 p.m.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 02–21899 Filed 8–23–02; 2:59 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 02-20680) published on page 53354 of the issue for Thursday, August 15, 2002.

Under the Federal Reserve Bank of San Francisco heading, the entry for New Corporation, Oakland, California, is revised to read as follows:

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. New Met Financial Corporation, Oakland, California; to become a bank holding company by acquiring 100 percent of the voting shares of Met Financial Corporation, Oakland, California, and thereby indirectly acquire Metropolitan Bank, Oakland, California.

Comments on this application must be received by September 9, 2002.

Board of Governors of the Federal Reserve System, August 21, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–21724 Filed 8–26–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 20, 2002.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Provident Financial Services, Inc., Jersey City, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Provident Bank, Jersey City, New Jersey.

B. Federal Reserve Bank of Minneapolis (Julie Stackhouse, Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Eagle Community Bancshares, Inc., Brooklyn Park, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Eagle Community Bank, Maple Grove, Minnesota.

Board of Governors of the Federal Reserve System, August 21, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–21725 Filed 8–26–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11 a.m., Tuesday, September 3, 2002.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

FOR MORE INFORMATION PLEASE CONTACT: Michelle A. Smith, Assistant to the Board; 202–452–2955.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at *http://www.federalreserve.gov* for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: August 23, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–21974 Filed 8–23–02; 1:58 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting by Teleconference of the Secretary's Advisory Committee on Regulatory Reform

AGENCY: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services.

ACTION: Notice of teleconference.

SUMMARY: This notice announces a teleconference meeting open to the public to be held by the Department of Health and Human Services (HHS) Secretary's Advisory Committee on Regulatory Reform. As governed by the Federal Advisory Committee Act in accordance with section 10(a)(2), the Secretary's Advisory Committee on Regulatory Reform will advise and make recommendations for changes that

would be beneficial in four broad areas: health care delivery, health systems operations, biomedical and health research, and the development of pharmaceuticals and other products. The Committee will review and advise on changes identified through regional public hearings, written comments from the public, and consultation with HHS staff.

All meetings and hearings of the Committee are open to the general public. The teleconference agenda will allow some time for public comment. Additional information on the agenda and meeting materials will be posted on the Committee's Web site prior to the telemeeting (*http://www.regreform.hhs.gov*).

DATES: The teleconference will be held on Monday, September 9, 2002, from 12:00 pm to 3:00 pm Eastern Daylight Time.

Telephone Number: Members of the public who wish to attend via telephone should dial (877) 381–6315 and provide conference ID 5382888. TTY for the hearing impaired can be accessed by dialing 711. Attendance on the call may be limited by the number of telephone lines available. To ensure that we can accommodate members of the public, individuals are encouraged, but not required, to notify HHS staff in advance of the meeting if they are planning to attend via telephone by sending an e-mail to *vineeta.jain@hhs.gov* or fax to (202) 401–5159 with the following information: Name, organization, phone number, fax number, and e-mail address. Individuals who wish to provide public comment during the teleconference will be provided instructions when they call.

ADDRESSES: Members of the public are also invited to the following location to attend the teleconference: Room 800, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201. To comply with security requirements, individuals who do not possess a valid Federal identification must present a picture identification, *e.g.*, driver's license or passport upon entry to the Humphrey Building.

FOR FURTHER INFORMATION CONTACT: Margaret P. Sparr, Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform, Office of the Assistant Secretary for Planning and Evaluation, 200 Independence Avenue, SW., Room 344G, Washington, DC 20201, (202) 401–5182.

SUPPLEMENTARY INFORMATION: Anyone planning to attend the teleconference by coming to the Hubert H. Humphrey Building and who requires special disability-related arrangements such as sign-language intepretation should provide notice of their need by Tuesday, September 3, 2002. Please make any request to Ms. Vineeta Jain—phone: (202) 401–5182; fax: (202) 401–5159; e-mail: *vineeta.jain@hhs.gov*.

On June 8, 2001, HHS Secretary Thompson announced a Department-wide initiative to reduce regulatory burdens in health care, to improve patient care, and to respond to the concerns of health care providers and industry, State and local Governments, and individual Americans who are affected by HHS rules. Common sense approaches and careful balancing of needs can help improve patient care. As part of this initiative, the Department established the Secretary's Advisory Committee on Regulatory Reform to provide findings and recommendations regarding potential regulatory changes. These changes would enable HHS programs to reduce burdens and costs associated with departmental regulations and paperwork, while at the same time maintaining or enhancing the effectiveness, efficiency, impact, and access of HHS programs.

Dated: August 21, 2002.

Margaret P. Sparr,

Executive Coordinator, Secretary's Advisory Committee on Regulatory Reform.

[FR Doc. 02–21726 Filed 8–26–02; 8:45 am]

BILLING CODE 4151–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Technical Review Committee (TRC) meeting. This TRC's charge is to review contract proposals and provide recommendations to the Acting Director, AHRQ, with respect to the technical merit of proposals submitted in response to a Request for Proposals (RFP) regarding ''Developing Tools to Enhance Quality and Patient Safety Through Medical Informatics'', issued on June 27, 2002. The contract will constitute AHRQ's participation in the Small Business Innovation Research program.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2 and procurement regulations, 41 CFR 101–6.1023 and 48 CFR 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary information and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that prevent undue interference with Committee and Department operations.

Name of TRC: The Agency for Healthcare Research and Quality—''Developing Tools to Enhance Quality and Patient Safety Through Medical Informatics''.

Date: August 30, 2002.

Place: Agency for Healthcare Research and Quality, 6010 Executive Blvd, 4th Floor Conference Center, Rockville, Maryland 20852.

Contract Person: Anyone wishing to obtain information regarding this meeting should contact Eduardo Ortiz, Center for Primary Care Research, Agency for Healthcare Research and Quality, 6010 Executive Blvd, Suite 201, Rockville, Maryland, 20852, 301–594–6236. This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Dated: August 16, 2002.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 02–21742 Filed 8–26–02; 8:45 am]

BILLING CODE 4160–40–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 02032]

Cooperative Agreement to the Medical Research Council of South Africa (MRC) for Tuberculosis Control Activities; Notice of Award of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the award of fiscal year (FY) 2002 funds for a sole source cooperative agreement for the Medical Research Council of South Africa (MRC).

The purpose of this program is to help support and ensure implementation of tuberculosis (TB) control activities that are designed to develop, establish, and coordinate systems and procedures to address the obstacles to achieving control of TB and multi-drug tuberculosis (MDR–TB) in South Africa.

These collaborative activities can profoundly change the focus and activities of the South African National TB Control Program and improve TB treatment and control programs and related prevention efforts in South Africa.

B. Eligible Applicants

Assistance will be provided only to the Medical Research Council (MRC) of South Africa. No other applications will be solicited. MRC will support and ensure implementation of tuberculosis (TB) control activities that are designed to develop, establish, and coordinate systems and procedures to address the obstacles to achieving control of tuberculosis and multi-drug tuberculosis (MDR–TB) in South Africa.

MRC is the most appropriate and qualified agency to conduct the activities under this cooperative agreement because:

1. The MRC is uniquely positioned, in terms of legal authority, ability, track record, and credibility in South Africa to develop and support TB control activities in both public and non-governmental organization sites throughout the country.

2. The MRC has already established mechanisms to develop and implement TB treatment services in South Africa, enabling it to immediately become engaged in the activities listed in this announcement.

3. The purpose of the announcement is to build upon the existing framework of TB control activities that the MRC has developed or initiated.

4. The MRC has been mandated by the South African government to coordinate and implement TB treatment and control activities including MDR–TB within the country.

5. MRC has a unique and unparalleled involvement with the Ministry of Health's National Tuberculosis Control Program (NTP) and the South African National Tuberculosis Association (SANTA) based on a history of collaboration.

6. MRC coordinates the research and development activities for the Global Alliance for TB Drug Development in the search for a better, more effective and affordable cure for TB that is shorter, equally effective against susceptible and drug-resistant TB, accessible to the populations that need it most, and be on the market in less than 10 years.

C. Funds

Approximately $307,000 is being awarded in FY 2002. The award will be made by July 1, 2002, for a 12-month budget period within a project period of up to five years.

D. Where To Obtain Additional Information

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from:

Angelia D. Hill, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, MS E–09, Atlanta, GA 30341–4146, Telephone: (770) 488–2785, FAX: (770) 488–2688, E-mail: *aph8@cdc.gov.*

Michael Qualls, Deputy Associate Director, International Activities, Division of Tuberculosis Elimination, National Center for HIV, STD, and TB Prevention Centers for Disease Control and Prevention (CDC), 1600 Clifton Road Mailstop E–10, Atlanta, GA 30333, Telephone 404–639–8488, Email address: *muq1@cdc.gov.*

Dated: August 20, 2002.

Sandra R. Manning, CGFM,

Director, Procurement and Grants Office, Centers for Disease Control & Prevention.

[FR Doc. 02–21731 Filed 8–26–02; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

Announcement of Office of Management and Budget (OMB) Control Numbers for Agency Information Collections Approved Under the Paperwork Reduction Act of 1995

AGENCY: Centers for Medicare and Medicaid Services, HHS.

This notice announces and displays OMB control numbers for Centers for Medicare and Medicaid Services (CMS) information collections that have been approved by OMB.

Under OMB's regulations implementing the Paperwork Reduction Act (PRA), 44 U.S.C. 3501, each agency that proposes to collect information must submit its proposal for OMB review and approval in accordance with 5 CFR part 1320. Once OMB has approved an agency's proposed collection of information and issues a control number, the agency must display the control number.

OMB regulations provide for alternative methods of displaying OMB control numbers. In the case of collections of information published in regulations, display is to be ''provided in a manner that is reasonably calculated to inform the public.'' To meet this requirement an agency may display such information in the **Federal Register** by publishing such information in the preamble or the regulatory text, or in a technical amendment to the regulation, or in a separate notice announcing OMB approval of the collection of information.

To comply with this requirement, CMS has chosen to publish this notice announcing OMB approval of the collections of information published in regulations. As stated above, this notice announces and displays the assigned OMB control numbers for CMS's information collections that have been approved by OMB.

42 CFR	OMB Control Nos.
405.262	0938–0267
405.371	0938–0600
405.376	0938–0270
405.378	0938–0600
405.410	0938–0730
405.430, .435, .440, .445, .455.	0938–0730
405.711	0938–0045
405.807	0938–0033
405.821	0938–0034
405.2100–.2171	0938–0386
405.2110, 405.2112	0938–0657 & 0658
405.2133	0938–0046
405.2135–.2171	0938–0360
405.2470	0938–0155
406.7	0938–0251
406.13	0938–0080
406.15	0938–0501
406.28	0938–0025 & 0787
407.10, 407.11	0938–0245
407.18	0938–0679
407.27	0938–0025 & 0787
407.40	0938–0035
408.6	0938–0041
409.40–.50	0938–0357
410.1	0938–0679
410.2	0938–0770
410.32	0938–0685
410.33	0938–0721
410.36	0938–0357
410.38	0938–0534
410.40	0938–0042
410.61	0938–0730
410.71	0938–0685
410.141–.145	0938–0818
410.170	0938–0357
411.1	0938–0846
411.4–.15	0938–0357
411.20–411.206	0938–0565
411.25	0938–0214
411.350–.357	0938–0846
411.370–411.389	0938–0714
411.404–.406	0938–0465, 0781 & 0692
411.408	0938–0566
412	0938–0842

42 CFR	OMB Control Nos.
412.20–.32	0938–0358
412.40–.52	0938–0359
412.42	0938–0692
412.44, 412.46	0938–0445
412.92	0938–0477
412.105	0938–0456
412.106	0938–0691
412.116	0938–0269
412.256	0938–0573
413	0938–0842
413.17	0938–0202 & 0685
413.20	0938–0202, 0236 & 0600
413.20, 413.24	0938–0022, 0037, 0050, 0102, 0107, 0236, 0301, 0463, 0511 & 0758
413.64	0938–0269
413.106	0938–0022
413.170	0938–0296
413.337	0938–0739 & 0872
413.343	0938–0739
414.40	0938–0008
414.63	0938–0818
414.330	0938–0372
415.50, .55, .60, .70	0938–0301
415.110	0938–0730
415.150, .152, .160, .162	0938–0301
416.1–.150	0938–0266
416.44	0938–0242
417.126	0938–0469 & 0732
417.143	0938–0470
417.162	0938–0469
417.408	0938–0470
417.436	0938–0610
417.440	0938–0692
417.470	0938–0732
417.478	0938–0469
417.479, 417.500	0938–0700
417.801	0938–0610
417.800–.840	0938–0768
418.1–418.405	0938–0313 & 0379
418.22, 418.24, 418.28, 418.56, 418.58, 418.70, 418.83, 418.96, 418.100.	0938–0302
418.100	0938–0242
419	0938–0857 & 0860
419.43	0938–0802
420.200–.206	0938–0086
421.100	0938–0357
421.310, 421.312	0938–0723
422.1–.10, 422.50–.80, 422.100–.132, 422.300–.312, 422.400–.404, 422.560–.622.	0938–0763
422.1–422.700	0938–0753
422.64, 422.111, 422.560–422.622.	0938–0778
422.152	0938–0701 & 0840
422.208, 422.210	0938–0700
422.300–422.312	0938–0742
422.370–422.378	0938–0722
422.568	0938–0829
422.620	0938–0692
424.5	0938–0534 & 0279
424.20	0938–0454
424.22	0938–0357, 0489 & 0846
424.24	0938–0730
424.32	0938–0008 & 0739
424.44	0938–0008
424.57	0938–0717, 0749, & 0685
424.73, 424.80	0938–0685
424.103	0938–0023
424.123	0938–0484
424.124	0938–0042
426.102–426.104	0938–0526
430.10	0938–0673
430.10–.20	0938–0193
430.12	0938–0610
430.20	0938–0610
430.30	0938–0101
431.1–431.865	0938–0062
431.17	0938–0467
431.107	0938–0610
431.306	0938–0467
431.630	0938–0445
431.636	0938–0841
431.800	0938–0300
431.800–431.820	0938–0144
431.800–431.865	0938–0146, 0147, & 0246
433.68, 433.74	0938–0618
433.138	0938–0502
434.28	0938–0610
434.44, 434.67, 434.70	0938–0700
435.1–435.1011	0938–0062
435.910, 435.920, 435.940–.960.	0938–0467
438.364	0938–0786
440.1–.270	0938–0062
440.30	0938–0685
440.167	0938–0193
440.180	0938–0272, & 0449
441.16	0938–0713
441.60	0938–0354
441.152	0938–0754
441.300–441.305	0938–0272
441.300–441.310	0938–0449
442.1–.119	0938–0062
447.31	0938–0287
447.53	0938–0429
447.254	0938–0784
447.272	0938–0618 & 0855
447.280	0938–0624
447.321	0938–0855
447.500–.542	0938–0676
447.550	0938–0676
455.100–.106	0938–0086
456.654	0938–0445
456.700, 456.705, 456.709, 456.711, 456.712.	0938–0659
457.50, .60, .70, .340, .350, .431, .440, .525, .560, .570, .740, .750, .810, .940, .945, .965, .985, .1005, .1015, .1180.	0938–0841
460.12, .22, .30, .32, .52, .60, .68, .70, .72, .74, .80, .82, .98, .100, .102, .104, .106, .110, .112, .116, .118, .120, .122, .124, .132, .152, .154, .156, .160, .164, .168, .172, .190, .196, .200, .202, .204, .206, .208, .210.	0938–0790
466.71, 466.73, 466.74, 466.78.	0938–0445
466.78.	0938–0692
473.18, 473.34, 473.36, 473.42.	0938–0443
476.104, 476.105, 476.116, 476.134.	0938–0426
482.1–.66	0938–0380
482.2–.57	0938–0382
482.12, 482.22	0938–0328
482.27	0938–0328
482.41	0938–0242
482.30, 482.41, 482.43, 482.53, 482.56, 482.57.	0938–0328
482.45	0938–0810
482.60–.62	0938–0378 & 0328
482.66	0938–0328 & 0624
483.10	0938–0610
483.20	0938–0739 & 0872
483.270	0938–0242
483.350–.376	0938–0833
483.400–.480	0938–0062
483.470	0938–0242
484.1–.52	0938–0365
484.10	0938–0610 & 0781
484.10–.52	0938–0355
484.11	0938–0761
484.12	0938–0685
484.18	0938–0357
484.20	0938–0761
484.55	0938–0760
484.220	0938–0760
485.56, 485.58, 485.60, 485.64, 485.66.	0938–0267
485.701–.729	0938–0065 & 0273
486.100–.110	0938–0027
486.104, 486.106, 486.110	0938–0338
486.301–.325	0938–0512 & 0688
488.4–488.9	0938–0690
488.18	0938–0391 & 0667
488.26	0938–0391
488.28	0938–0391
488.60	0938–0360
488.201	0938–0690
489	0938–0832
489.2	0938–0214
489.20	0938–0214, 0667 & 0692
489.21	0938–0357
489.24	0938–0667
489.27	0938–0692
489.32, 489.34	0938–0692

42 CFR	OMB Control Nos.
489.66, 489.67	0938–0713
489.102	0938–0610
491.1–.11	0938–0074
491.3, 491.8	0938–0792
491.9	0938–0334
491.11	0938–0792
493.1–.2001	0938–0151, 0544, 0581, 0599, 0612, 0650 & 0653
493.551–.557	0938–0686
493.1269–.1285	0938–0170
493.1840	0938–0655
498.40–.95.	0938–0486 & 0567
1003.100, 1003.101, 1003.103.	0938–0700
1004.40, 1004.50, 1004.60, 1004.70.	0938–0444

45 CFR	OMB. Control Nos
5b	0938–0734
146	0938–0702
146.121	0938–0819
146.141	0938–0827
148	0938–0703 & 0797
162	0938–0866

Dated: August 20, 2002.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 02–21711 Filed 8–26–02; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0007]

Agency Information Collection Activities; Announcement of OMB Approval; CGMP Regulations for Finished Pharmaceuticals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''CGMP Regulations for Finished Pharmaceuticals'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 16, 2002 (67 FR 34939), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0139. This approval expires on August 31, 2005. A copy of the supporting statement for this information collection is available on the Internet at http://www.fda.gov/ohrms/dockets.

Dated: August 21, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–21735 Filed 8–26–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Clinical Studies of Safety and Effectiveness of Orphan Products; Availability of Grants; Request for Applications (Catalog of Federal Domestic Assistance No. 93.103)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing changes to its Office of Orphan Products Development (OPD) grant program for fiscal year (FY) 2003. This announcement supercedes the previous announcement of this program, which was published in the **Federal Register** on August 27, 2001.

DATES: The application receipt dates are October 16, 2002, and April 2, 2003.

ADDRESSES: Application requests and completed applications should be submitted to Maura Stephanos, Grants Management Specialist, Grants Management Staff, Division of Contracts and Procurement Management (HFA–520), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7183, FAX 301–827–7101, e-mail: mstepha1@oc.fda.gov. Applications that are hand-carried or commercially delivered should be addressed to 5630 Fishers Lane, rm. 2129, Rockville, MD 20857. Applications may also be obtained from the OPD on the Internet at http://www.fda.gov/orphan or at http://grants.nih.gov/grants/funding/phs398/phs398.html. Note: Do not send applications to the Center for Scientific Research (CSR), National Institutes of Health (NIH).

FOR FURTHER INFORMATION CONTACT:

Regarding the administrative and financial management issues of this notice: Maura Stephanos (see **ADDRESSES**).

Regarding the programmatic issues of this notice: Debra Y. Lewis, Office of Orphan Products Development (HF–35), Food and Drug Administration, 5600 Fishers Lane, rm. 15A–08, Rockville, MD 20857, 301–827–3666, FAX 301–827–0017, e-mail: dlewis@oc.fda.gov.

SUPPLEMENTARY INFORMATION: All studies of new drug and biological products must be conducted under the FDA's investigational new drug (IND) procedures and studies of medical devices must be conducted under the investigational device exemption (IDE) procedures. Studies of approved products to evaluate new orphan indications are acceptable; however, these must also be conducted under an IND or IDE to support a change in labeling. The study protocol proposed in the grant application must be under an active IND or IDE (not on clinical hold) to qualify the application for scientific and technical review. (See Program Review Criteria for important information about the IND/IDE status of products to be studied under these grants.)

Except for medical foods that do not need premarket approval, FDA will only consider awarding grants to support premarket clinical studies to find out whether the products are safe and effective for approval under section 301 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 331 *et seq.*) or under section 351 of the Public Health Service Act (the PHS Act) (42 U.S.C. 262).

FDA will support the clinical studies covered by this notice under the authority of section 301 of the PHS Act. FDA's research program is described in the Catalog of Federal Domestic Assistance, No. 93.103. The Public Health Service (PHS) strongly encourages all grant recipients to provide a smoke-free workplace and to discourage the use of all tobacco products. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

PHS's policy is that applicants for PHS clinical research grants should include minorities and women in study populations so research findings can be of benefit to all people at risk of the disease, disorder, or condition under study. Special emphasis should be placed on the need for inclusion of minorities and women in studies of diseases, disorders, and conditions that disproportionately affect them. This policy applies to research subjects of all ages. If women or minorities are excluded or poorly represented in clinical research, the applicant should provide a clear and compelling rationale that shows inclusion is inappropriate.

FDA is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2010,'' a national effort designed to reduce morbidity and mortality and to improve quality of life. Applicants may obtain a paper copy of the ''Healthy People 2010'' objectives, vols. I and II, for $70 ($87.50 foreign) S/N 017–000–00550–9, by writing to the Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Telephone orders can be placed to 202–512–2250. The document is also available in CD–ROM format, S/N 017–001–00549–5 for $19 ($23.50 foreign) as well as on the Internet at http://health.gov/healthypeople/. Internet viewers should proceed to ''Publications.''

I. Program Research Goals

OPD was created to identify and promote the development of orphan products. Orphan products are drugs, biologics, medical devices, and foods for medical purposes that are indicated for a rare disease or condition (that is, one with a prevalence, not incidence, of fewer than 200,000 people in the United States). Diagnostic tests and vaccines will qualify only if the U.S. population of intended use is fewer than 200,000 people a year.

The goal of FDA's OPD grant program is the clinical development of products for use in rare diseases or conditions where no current therapy exists or where the product will improve the existing therapy. FDA provides grants for clinical studies that will either result in or substantially contribute to market approval of these products. Applicants should keep this goal in mind and must include an explanation in the application's ''Background and Significance'' section of how their proposed study will either help gain product approval or provide essential data needed for product development. All funded studies are subject to the requirements of the act and regulations issued under it.

II. Award Amounts

FDA is announcing the expected availability of FY 2003 funds for awarding grants to support clinical studies on the safety and effectiveness of products (drugs, biologics, and devices) for rare diseases or conditions (that is, with a prevalence, not incidence, of fewer than 200,000 people in the United States).

Of the estimated FY 2003 funding ($13.3 million), approximately $9.3 million will fund noncompeting continuation awards, and approximately $4 million will fund 12 to 15 new awards. In the first part of the funding cycle, approximately $1 million will be awarded to successful applications received by the October 16, 2002, due date (with the award starting after March 1, 2003). All applications recommended for approval that are not funded in the first part of the cycle will remain in competition for the second part of the funding cycle with applications received by the April 2, 2003, due date. The expected start date for these awards will be September 30, 2003. Applications submitted for the first due date may be withdrawn and resubmitted for the second due date.

Any phase (1, 2, or 3) clinical trial is eligible for up to $150,000 in direct costs a year, plus applicable indirect costs, for up to 3 years. Phase 2 and 3 clinical trials are also eligible for up to $300,000 in direct costs a year, plus applicable indirect costs, for up to 3 years. Study proposals for the smaller grants ($150,000) may be for phase 1, 2, or 3 clinical trials. Study proposals for the larger grants ($300,000) must be continuing in phase 2 or phase 3 of investigation. Phase 2 trials include controlled clinical studies conducted to evaluate the effectiveness of the product for a particular indication in patients with the disease or condition and to determine the common or short-term side effects and risks associated with it. Phase 3 trials gather more information about effectiveness and safety that is necessary to evaluate the overall risk-benefit ratio of the product and to provide an acceptable basis for product labeling. Budgets for all years of requested support may not exceed the $150,000 or $300,000 direct cost limit, whichever is applicable.

III. Human Subject Protection and Informed Consent

A. Protection of Human Research Subjects

All institutions engaged in human subject research supported by the Department of Health and Human Services (DHHS) must file an ''assurance'' of protection for human subjects with the Office for Human Research Protection (OHRP) (45 CFR part 46). Applicants are advised to visit the OHRP Internet site at http://ohrp.osophs.dhhs.gov/ for guidance on human subjects issues. The requirement to file an assurance includes both ''awardee'' and collaborating ''performance site'' institutions. Awardee institutions are automatically considered to be engaged in human subject research whenever they receive a direct DHHS award to support such research, even where all activities involving human subjects are carried out by a subcontractor or collaborator. In such cases, the awardee institution bears the ultimate responsibility for protecting human subjects under the award. The awardee institution is also responsible for ensuring that all collaborating performance site institutions engaged in the research hold an approved assurance prior to their initiation of the research. No awardee or performance site institution may spend funds on human subject research or enroll subjects without the approved and applicable assurance(s) on file with OHRP.

Applicants must also provide certification of Institutional Review Board (IRB) review and approval for every site taking part in the study. This documentation need not be on file with the FDA Grants Management Office prior to the award, but must be on file before research can begin at a site.

Applicants should review the section on human subjects in the application instructions entitled ''I. Preparing Your Application, Section C. Specific Instructions, Item 4, Human Subjects'' for further information.

B. Key Personnel Human Subject Protection Education

The awardee institution should ensure that all key personnel receive appropriate training in their human subject protection responsibilities. Key personnel include all principal investigators, co-investigators, and performance site investigators responsible for the design and conduct of the study. Within 30 days of award, the principal investigator should provide a letter which includes the names of the key personnel, the title of

the human subjects protection education program completed by each named personnel, and a one-sentence description of the program. This letter should be signed by the principal investigator and co-signed by an institution official and sent to the Grants Management Office. Neither DHHS, FDA, or OPD prescribe or endorse any specific education programs. Many institutions have already developed educational programs on the protection of research subjects and have made participation in such programs a requirement for their investigators. Other sources of appropriate instruction might include the online tutorials offered by the Office of Human Subjects Research, NIH at http://ohsr.od.nih.gov/ and by OHRP at http://ohrp.osophs.dhhs.gov/educmat.htm. Also, the University of Rochester has made available its training program for individual investigators. Their manual can be obtained through Centerwatch, Inc., at http://www.centerwatch.com.

C. Informed Consent

Consent forms, assent forms, and any other information given to a subject, should be sent with the grant application (even if such a form is in a draft version). Information given to the subject or his or her representative must be in language the subject or representative can understand. No informed consent, whether verbal or written, may include any language through which the subject or representative waives any of the subject's legal rights, or by which the subject or representative releases or appears to release the investigator, the sponsor, or the institution or its agent from liability. If a study involves both adults and children, separate consent forms should be provided for the adults and the parents or guardians of the children. The applicant is referred to DHHS regulations at 45 CFR 46.116 and 21 CFR 50.25 for details regarding the (required) elements of informed consent.

IV. Reporting Requirements

The original and two copies of the annual Financial Status Report (FSR) (SF–269) must be sent to FDA's grants management officer within 90 days of the budget period end date of the grant. Failure to file the FSR in a timely fashion will be grounds for suspension or termination of the grant. For continuing grants, an annual program progress report is also required. The noncompeting continuation application (PHS 2590) will be considered the annual program progress report. Also, all new and continuing grants must comply with all regulatory requirements necessary to keep active status of their IND/IDE. Failure to meet regulatory requirements will be grounds for suspension or termination of the grant.

The program project officer will monitor grantees quarterly and will prepare written reports. The monitoring may be in the form of telephone conversations or e-mail between the project officer/grants management specialist and the principal investigator. Periodic site visits with officials of the grantee organization may also occur. The results of these reports will be recorded in the official grant file and may be available to the grantee on request consistent with FDA disclosure regulations. Also, the grantee organization must comply with all special terms and conditions, which state that future funding of the study will depend on recommendations from the OPD project officer. The scope of the recommendations will confirm that: (1) There has been acceptable progress toward enrollment, based on specific circumstances of the study; (2) there is an adequate supply of the product/device; and (3) there is continued compliance with all FDA regulatory requirements for the trial.

The grantee must file a final program progress report, FSR and invention statement within 90 days after the end date of the project period as noted on the notice of grant award.

V. Mechanism of Support

A. Award Instrument

Support will be in the form of a grant. All awards will be subject to all policies and requirements that govern the research grant programs of the PHS, including the provisions of 42 CFR part 52 and 45 CFR parts 74 and 92. The regulations issued under Executive Order 12372 do not apply to this program. The NIH modular grant program does not apply to this FDA grant program. All grant awards are subject to applicable requirements for clinical investigations imposed by sections 505, 512, and 515 of the act (21 U.S.C. 355, 360b, and 360e), section 351 of the PHS Act (42 U.S.C. 262), and regulations issued under any of these sections.

B. Eligibility

The grants are available to any foreign or domestic, public or private nonprofit entity (including state and local units of government) and any foreign or domestic, for-profit entity. For-profit entities must commit to excluding fees or profit in their request for support to receive grant awards. Organizations described in section 501(c)4 of the Internal Revenue Code of 1968 that lobby are not eligible to receive grant awards.

C. Length of Support

The length of support will depend on the nature of the study. For those studies with an expected duration of more than 1 year, a second or third year of noncompetitive continuation of support will depend on: (1) Performance during the preceding year, (2) Federal funds availability, and (3) compliance with regulatory requirements of the IND/IDE.

D. Funding Plan

The number of studies funded will depend on the quality of the applications received and the availability of Federal funds to support the projects. Resources for this program are limited. Therefore, if two applications propose duplicative or similar studies, FDA may support only the study with the better score. Funds may be requested in the budget to travel to FDA for meetings with OPD or reviewing division staff about the progress of product development.

Before an award will be made, the OPD will confirm the active status of the protocol under the IND/IDE. If the protocol is under FDA clinical hold for any reason, no award will be made. Also, if the IND/IDE for the proposed study is not active and in regulatory compliance, no award will be made. Documentation of IRB approvals for all performance sites must be on file with the FDA Grants Management Office before research can begin at that site. This grant program does not require the applicant to match or share in the project costs if an award is made.

VI. Review Procedures and Criteria

A. Review Procedures

FDA's grants management and program staff will review all applications sent in response to this notice. To be responsive, an application must: (1) Be received by the specified due date; (2) be submitted in accordance with sections V.B ''Eligibility,'' VII ''Submission Requirements,'' and VIII.A ''Submission Instructions'' of this notice; (3) not exceed the recommended funding amount stated in section II ''Award Amounts'' of this document; (4) be in compliance with the following section VI.B '' Program Review Criteria;'' and (5) bear the original signatures of both the principal investigator and the Institution's/Organization's Authorized Official. Applications found to be nonresponsive

will be returned to the applicant without further consideration (unreviewed). Applicants are strongly encouraged to contact FDA to resolve any questions about criteria before submitting their application. Please direct all questions of a technical or scientific nature to the OPD program staff and all questions of an administrative or financial nature to the grants management staff (see **ADDRESSES**).

Responsive applications will be reviewed and evaluated for scientific and technical merit by an ad hoc panel of experts in the subject field of the specific application. Consultation with the proper FDA review division may also occur during this phase of the review to determine whether the proposed study will provide acceptable data that could contribute to product approval. Responsive applications will be subject to a second review by a National Advisory Council for concurrence with the recommendations made by the first-level reviewers, and funding decisions will be made by the Commissioner of Food and Drugs.

B. Program Review Criteria

Program review criteria include the following:

1. The application must propose a clinical trial intended to provide safety and/or efficacy data of one therapy for one orphan indication.

2. There must be an explanation in the ''Background and Significance'' section of how the proposed study will either contribute to product approval or provide essential data needed for product development.

3. The prevalence, not incidence, of the population to be served by the product must be fewer than 200,000 individuals in the United States. The applicant should include, in the ''Background and Significance'' section, a detailed explanation supplemented by authoritative references in support of the prevalence figure. Diagnostic tests and vaccines will qualify only if the population of intended use is fewer than 200,000 individuals in the United States per year.

4. The study protocol proposed in the grant application must be under an active IND or IDE (not on clinical hold) to qualify the application for scientific and technical review. Additional IND/IDE information is described below:

- The proposed clinical protocol should be submitted to the FDA IND/IDE reviewing division a minimum of 30 days before the grant application deadline.
- The number assigned to the IND/IDE that includes the proposed study should appear on the face page of the application with the title of the project. The date the subject protocol was submitted to FDA for the IND/IDE review should also be provided.
- Protocols that would otherwise be eligible for an exemption from the IND regulations must be conducted under an active IND to be eligible for funding under this FDA grant program.
- If the sponsor of the IND/IDE is other than the principal investigator listed on the application, a letter from the sponsor permitting access to the IND/IDE must be submitted. Both the name of the principal investigator identified in the application and the study protocol must have been submitted to the IND/IDE.
- Studies of already approved products, evaluating new orphan indications, are also subject to these IND/IDE requirements.
- Only medical foods that do not need premarket approval are exempt from these IND/IDE requirements.

5. The requested budget must be within the limits (either $150,000 in direct costs for each year for up to 3 years for any phase study, or $300,000 in direct costs for each year for up to 3 years for phase 2 or 3 studies) as stated in this notice. Any application received that requests support over the maximum amount allowable for that particular study will be considered nonresponsive.

6. Proposed consent forms, assent forms, and any other information given to a subject, should be included in the grant application (even if they are in a draft version).

7. Evidence that the product to be studied is available to the applicant in the form and quantity needed for the clinical trial must be included in the application. A current letter from the supplier as an appendix will be acceptable.

8. Applicants must follow guidelines named in the PHS 398 (Rev. 5/01) grant application instructions.

C. Scientific/Technical Review Criteria

The ad hoc expert panel will review the application based on the following scientific and technical merit criteria:

1. The soundness of the rationale for the proposed study.

2. The quality and appropriateness of the study design including the rationale for the statistical procedures.

3. The statistical justification for the number of patients chosen for the study, based on the proposed outcome measures and the appropriateness of the statistical procedures for analysis of the results.

4. The adequacy of the evidence that the proposed number of eligible subjects can be recruited in the requested timeframe.

5. The qualifications of the investigator and support staff, and the resources available to them.

6. The adequacy of the justification for the request for financial support.

7. The adequacy of plans for complying with regulations for protection of human subjects.

8. The ability of the applicant to complete the proposed study within its budget and within time limits stated in this RFA.

A score will be assigned based on the above scientific/technical review criteria. The review panel may advise the program staff about the appropriateness of the proposal to the goals of the OPD grant program described in the section I ''Program Research Goals'' of this document.

VII. Submission Requirements

The original and two copies of the completed Grant Application Form PHS 398 (Rev. 5/01) or the original and two copies of PHS 5161–1 (Rev. 7/00) for State and local governments, with three copies of the appendices should be submitted to Maura Stephanos (see **ADDRESSES**). State and local governments may use the PHS 398 (Rev. 5/01) application form in lieu of the PHS 5161–1. The application receipt dates are October 16, 2002, and April 2, 2003. The only material will be accepted after the receipt date is evidence of final IRB approval. The mailing package and item 2 of the application face page should be labeled, ''Response to RFA–FDA–OPD–2003.'' If an application for the same study was submitted in response to a previous RFA but has not yet been funded, an application in response to this notice will be considered a request to withdraw the previous application. Resubmissions are treated as new applications; therefore, the applicant may wish to address the issues presented in the summary statement from the previous review, and include a copy of the summary statement itself as part of the application.

VIII. Method of Application

A. Submission Instructions

Applications will be accepted during normal working hours, from 8 a.m. to 4:30 p.m., Monday through Friday, by the established receipt dates. Applications will be considered received on time if sent or mailed by the receipt dates as shown by a legible U.S. Postal Service dated postmark or a legible date receipt from a commercial carrier. Private metered postmarks shall

not be acceptable as proof of timely mailing. Applications not received on time will not be considered for review and will be returned to the applicant. (Applicants should note the U.S. Postal Service does not uniformly provide dated postmarks. Before relying on this method, applicants should check with their local post office.) Please do not send applications to the CSR at NIH. Any application sent to NIH that is then forwarded to FDA and received after the applicable due date will be judged nonresponsive and returned to the applicant. Applications must be submitted via mail or hand delivered as stated above. FDA is unable to receive applications electronically.

B. Format for Application

Submission of the application must be on Grant Application Form PHS 398 (Rev. 5/01). Applications from State and local governments may be sent on Form PHS 5161–1 (Rev. 7/00) or Form PHS 398 (Rev. 5/01). All ''General Instructions'' and ''Specific Instructions'' in the application kit should be followed except for the receipt dates and the mailing label address. The face page of the application should reflect the request for applications number RFA–FDA–OPD–2003. The title of the proposed study should include the name of the product and the disease/disorder to be studied and the IND/IDE number. The format for all following pages of the application should be single-spaced and single-sided. FDA does not adhere to the page limits or the type size and line spacing requirements imposed by NIH on its applications.

Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget and Social Security numbers if otherwise required for individuals. The copies may include summary salary information.

Data and information included in the application will generally not be publicly available prior to the funding of the application. Data and information included in the application, if identified by the applicant as trade secret or confidential commercial information, will be given confidential treatment to the extent permitted by the Freedom of Information Act (5 U.S.C. 552(b)(4)) and FDA's implementing regulations (including inter alia 21 CFR 20.61) even after funding has been granted. Information collection requirements requested on Form PHS 398 (Rev. 5/01) have been sent by the PHS to the Office of Management and Budget (OMB) and have been approved and assigned OMB control number 0925–0001. The requirements requested on Form PHS 5161–1 (Rev. 7/00) were approved and assigned OMB control number 0348–0043.

Applicants should provide a summary of any meetings or discussions about the clinical study that have occurred with FDA reviewing division staff as an appendix to the application.

Dated: August 21, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–21736 Filed 8–26–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Blood Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 12, 2002, from 8 a.m. to 5:30 p.m.

Location: Hilton Silver Spring Hotel, Maryland Ballroom, 8727 Colesville Rd., Silver Spring, MD 20910.

Contact Person: Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–302), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 19516. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 12, 2002, the following committee updates are tentatively scheduled: (1) Consideration of the Clinical Laboratory Improvement Act (CLIA) waivers for rapid human immunodeficiency virus (HIV) tests; (2) implementation of HIV, type 1/hepatitis C virus nucleic acid testing algorithm; (3) summary of Public Health Service Advisory Committee on Blood Safety and Availability meeting held on September 5, 2002; (4) summary of the workshop on pathogen inactivation held on August 7 and 8, 2002; and (5) blood establishment registration—electronic submissions. In the morning, the committee will hear discussion and provide recommendations on the topic of self-administration of the uniform donor history questionnaire: first time donors. In the afternoon, the committee will hear an informational presentation on testing for Chagas disease, and a presentation on window period for HIV cases and current estimates of residual risk.

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 August 30, 2002. Oral presentations from the public will be scheduled between approximately 11 a.m. and 11:30 a.m., and 3:45 p.m. and 4:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 30, 2002, 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.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Linda A. Smallwood or Pearline K. Muckelvene at 301–827–1281 at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 20, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Relations.

[FR Doc. 02–21734 Filed 8–26–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oncologic Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA).

The meeting will be open to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 24, 2002, from 8:30 a.m. to 1:30 p.m.

Location: Holiday Inn, Kennedy Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact Person: Karen M. Templeton-Somers, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, e-mail: SomersK@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: On September 24, 2002, the committee will discuss new drug application (NDA) 21–399, IRESSAr (gefitinib), AstraZeneca Pharmaceuticals LP, indicated for the treatment of patients with locally advanced or metastatic non-small cell lung cancer who have previously received platinum-based chemotherapy.

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 September 16, 2002. Oral presentations from the public will be scheduled between approximately 8:45 a.m. and 9:45 a.m. on September 24, 2002. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 16, 2002, 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.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Karen Templeton-Somers at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 20, 2002.

Linda Arey Skladany,

Senior Associate Commissioner for External Relations.

[FR Doc. 02–21737 Filed 8–26–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02D–0320]

Draft Guidance for Industry and Clinical Investigators on the Use of Clinical Holds Following Clinical Investigator Misconduct; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry and clinical investigators entitled ''The Use of Clinical Holds Following Clinical Investigator Misconduct.'' This draft guidance provides information on FDA's use of its authority to impose a clinical hold on a study if FDA finds that a clinical investigator conducting the study has committed serious violations of our regulations pertaining to clinical trials involving human drug or biological products or has submitted false information to FDA or to the study's sponsor in any report. The draft guidance is intended to inform interested persons of the circumstances in which we may impose a clinical hold following the discovery of a clinical investigator's misconduct and the steps we might take to protect human subjects from investigator misconduct.

DATES: Submit written or electronic comments on the draft guidance by November 25, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, or to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Rachel Behrman, Center for Drug Evaluation and Research (HFD–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–6758; or

Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry and clinical investigators entitled ''The Use of Clinical Holds Following Clinical Investigator Misconduct.'' The draft guidance provides information on our authority to impose a clinical hold on a study if we find that a clinical investigator conducting the study has committed serious violations of our regulations pertaining to clinical trials involving human drug or biological products or has submitted false information to us or to the study's sponsor in any report. The draft guidance is intended to inform interested persons of the circumstances in which we may impose a clinical hold following the discovery of a clinical investigator's misconduct and the steps we might take to protect human subjects from investigator misconduct.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on the use of clinical holds to protect human subjects following clinical investigator misconduct in a clinical trial of a human drug or biological product. It does not create or confer any rights for or on any person and does not operate to bind us or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes

and regulations. As with other guidance documents, we do not intend this document to be all-inclusive, and we caution that not all information may be applicable to all situations. The document is intended to provide information and does not set forth requirements.

II. Comments

We are distributing this draft document for comment purposes only, and do not intend to implement it at this time. Interested persons may submit to the Dockets Management Branch (see **ADDRESSES**) written comments regarding this draft guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the draft 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.

III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cber/guidelines.htm.

Dated: July 8, 2002.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 02–21697 Filed 8–26–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Peer Educator Training Sites and Resource and Evaluation Center Cooperative Agreements; Open Competition Announcement

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Extension of Deadline Application Due Date.

SUMMARY: In notice document FR Doc. 02–19908 Filed August 6, 2002, make the correction:

On page 51286 in the seventh column under Application Dates: the deadline date has been extended to be received in the HRSA Grant Application Center by close of business September 9, 2002 (Not Postmarked by).

Dated: August 20, 2002.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 02–21699 Filed 8–26–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel. N01–BC–27012–74: Early Phase Clinical Trial to Evaluate Safety and Immunogenicity of Human Papilomavirus VLP Base Vacines.

Date: August 29, 2002.

Time: 12 PM to 3 PM.

Agenda: To review and evaluate contract proposals.

Place: 6116 Executive Boulevard, 8th Floor, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Thomas M. Vollberg, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institute of Health, 6116 Executive Boulevard, Suite 703/7142, Rockville, MD 20852, 301/594–9582, *vollbert@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 19, 2002.

Anna P. Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21790 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given on the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the discourse of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel. Role of Tim Family Genes in Asthma and Allergic Diseases.

Date: September 13, 2002.

Time: 1 PM to 4 PM.

Agenda: To review and evaluate grant applications.

Place: 6700 B Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cheryl K. Lapham, PhD, Scientific Review Administrator, NIH/NIAID, Scientific Review Program, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–496–2550, *clapham@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 13, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21789 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council for Nursing Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contract Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Nursing Research.

Date: September 17–18, 2002.

Open: September 17, 2002, 1 P.M. to 5 P.M.

Agenda: For discussion of program policies and issues.

Place: 45 Center Drive, Natcher Building, Conference Room E1/2Bethesda, MD 20892.

Closed: September 18, 2002, 9 a.m. to adjournment.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 45 Center Drive, Natcher Building, Conference Room E1/2, Bethesda, MD 20892.

Contact Person: Mary Leveck, PhD, Deputy Director, NINR, NIH, Building 31, Room 5B05, Bethesda, MD 20892, (301) 594–5963.

Information is also available on the Institute's/Center's home page: *www.nih.gov/ninr/a_advisory.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalog of Federal Domestic Assistance Program Nos. 93.361, Nursing Resaerch, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21791 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Drug Abuse.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Drug Abuse.

Date: September 18–19, 2002.

Closed: September 18, 2002, 1 PM to 3:30 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852.

Open: September 19, 2002, 9 AM to 3:30 PM.

Agenda: This portion of the meeting will be open to the public for announcements and reports of administrative, legislative and program developments in the drug abuse field.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852.

Contact Person: Teresa Levitin, PhD, Director, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, Bethesda, MD 20892–9547, (301) 443–2755.

Information is also available on the Institute's/Center's home page: *www.drugabuse.gov/NACDA/NACDAHome.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21792 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, Rotavirus Vaccine Review Panel.

Date: September 16, 2002.

Time: 1:00 PM to 2:30 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 400C, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Stanley C. Oaks, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, Research Core Centers P30 (PA–01–011).

Date: September 18, 2002.

Time: 1:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd., Suite 400C, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ali A. Azadegan, DVM, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD, NIH, EPS–400C, 6120 Executive Blvd., MSC 7180, Bethesda, MD 20892–7180, (301) 496–8683. *azadegan@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21794 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Infant Nutrition and Fetal Metabolism.

Date: October 21, 2002.

Time: 8:00 AM to 2:15 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21795 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, MCHG Training Grants.

Date: October 21, 2002.

Time: 2:30 PM to 6 PM.

Agenda: To review and evaluate grant applications.

Place: Bethesda Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Prograam; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 21, 2002.

LeVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21796 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group, Maternal and Child Health Research Subcommittee.

Date: October 22–23, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21797 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group Medical Rehabilitation Research Subcommittee.

Date: October 28–29, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6100 Executive Blvd., Rm. 5E03, Bethesda, MD 20892, 301–435–6908, *ak41o@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21798 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Disease Advisory Council.

Date: September 26, 2002.

Open: 8:30 a.m. to 12 p.m.

Agenda: The meeting will be open to the public to discuss administrative details relating to Council business and special reports.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: 1 PM to Adjournment.

Agenda: To review and evaluate grant applications and/or proposals.

Place: 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Steven J. Hausman, PhD, Deputy Director, NIAMS/NIH, Bldg. 31, Room 4C–32, 31 Center Dr, MSC 2350, Bethesda, MD 20892–2350, (301) 594–2463.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21799 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Analytical Services Center for Medications Development Program.''

Date: September 24, 2002.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1438.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21800 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDA.

Date: September 12–13, 2002.

Time: 9:30 a.m. to 2 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Intramural Research Program, National Institute on Drug Abuse, Johns Hopkins Bayview Campus, Bldg. C, 2nd Floor Auditorium, 5500 Nathan Shock Drive, Baltimore, MD 21224.

Contact Person: Stephen J. Heishman, PhD, Research Psychologist, Clinical Pharmacology Branch, Intramural Research Program, National Institute on Drug Abuse, National Institutes of Health, DHHS, 5500 Nathan Shock Drive, Baltimore, MD 21224, (410) 550–1547.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist

Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21801 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, New Research Strategies for Evaluation and Assessment of Bone Quality.

Date: September 12, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Tracy A. Shahan, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Plaza, Bethesda, MD 20892, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21802 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Shared Instrumentation S10 Confocal Grants.

Date: September 26–27, 2002.

Time: 8 AM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th Street, NW., Washington, DC 20007.

Contact Person: Randolph Addison, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025, *addisonr@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: September 26–27, 2002.

Time: 8 AM to 5 AM.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892, 301–435–1217, *brnesn@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 21, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–21793 Filed 8–26–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: National Evaluation of the Comprehensive Community Mental Health Services for Children and Their Families Program: Phase Three—(OMB No. 0930–0209, revision)—SAMHSA's Center for Mental Health Services is conducting Phase III of the national evaluation of the Comprehensive Community Mental Health Services for Children and Their Families Program. Phase III collects data on child mental health outcomes, family life, and service system development and performance. Data are being collected on 23 service systems (22 funded systems of care and one comparison site), and approximately 5,339 children and families. Data collection for this evaluation will be conducted over a five year period.

The core of service system data are currently collected every 18 months throughout the 5-year evaluation period, with a provider survey conducted in selected years. Service delivery and system variables of interest include the following: maturity of system of care development, adherence to the system of care program model, and client service experience. The length of time

that individual families will participate in the study ranges from 18 to 36 months depending on when they enter the evaluation.

Child and family outcomes of interest will be collected at intake and during subsequent follow-up sessions at six-month intervals. The outcome measures include the following: child symptomatology and functioning, family functioning, material resources, and caregiver strain. In addition, a treatment effectiveness study will examine the relative impact of an evidence-based treatment within one system of care.

The average annual respondent burden is estimated below. The estimate reflects the average number of respondents in each respondent category, the average number of responses per respondent per year, the average length time it will take for each response, and the total average annual burden for each category of respondent, and for all categories of respondents combined.

This revision to the currently approved information collection activities involves: (1) Extension of the data collection period for an additional 18 months to cover an additional sixth year of grant funding in the 22 currently funded systems of care (and a six-month no-cost extension for the evaluation), (2) the addition of a family-driven study to assess the extent of family involvement in service planning, (3) the addition of a sustainability study to assess the capacity of funded communities to continue system of care service provision after the termination of grant funding, and (4) the addition of a wraparound fidelity study to assess the implementation of wraparound services delivery in the context of a system of care. Although, the data collection period is being extended for an additional 18 months, the total average annual burden is reduced because the total number of responses for each individual remains the same.

Respondent (currently approved)	Number of respondents		Number of responses/ respondent		Average burden/ response		Total average annual burden	
	With revisions	Currently approved	With revisions	Currently approved	With revisions	Currently approved	With revisions	Currently approved
Caregiver	5339	5339	1.38561	1.00054	2.06632	2.09489	15,286	11,191
Youth	3203	3203	1.48281	1.06771	0.91511	0.92960	4,347	3,179
Provider	483	483	0.77370	0.49044	1.10432	1.38961	413	329
Total	.....	.....	.....	.....	.....	.....	20,046	14,699

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 21, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–21727 Filed 8–26–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Drug and Alcohol Services Information System (DASIS)—(OMB No. 0930–0106)—Revision—The DASIS consists of three related data systems: The Inventory of Substance Abuse Treatment Services (I–SATS); the National Survey of Substance Abuse Treatment Services (N–SSATS), and the Treatment Episode Data Set (TEDS). The I–SATS includes all substance abuse treatment facilities known to SAMHSA. The N–SSATS is an annual survey of all substance abuse treatment facilities listed in the I–SATS. The TEDS is a compilation of client-level admission data and discharge data submitted by States on clients treated in facilities that receive State funds. Together, the three DASIS components provide information on the location, scope and characteristics of all known drug and alcohol treatment facilities in the United States, the number of persons in treatment, and the characteristics of clients receiving services at publicly-funded facilities. This information is needed to assess the nature and extent of these resources, to identify gaps in services, to provide a database for treatment referrals, and to assess demographic and substance-related trends in treatment.

The request for OMB approval will include only modest changes to the 2003 N–SSATS questionnaire, including the addition of several drugs to the pharmacotherapies list and the addition of services such as beds for dependent children of women in treatment to the ''other services'' list. The remaining sections of the N–SSATS questionnaire will remain unchanged except for minor modifications to wording.

Approval will also be requested for an additional component, the Mini-N–SSATS. The Mini-N–SSATS is a procedure for collecting services data from newly identified facilities between main cycles of the survey and will be used to improve the listing of treatment facilities in the on-line treatment facility Locator. The between-survey telephone calls to newly identified facilities allow facilities to be added to the Locator in a more timely manner. No significant changes are expected in the other DASIS activities.

Estimated annual burden for the DASIS activities is shown below:

Type of respondent and activity	Number of respondents	Responses per respondent	Hours per response	Total burden hours
States				
TEDS Admission Data	52	4	6	1,248
TEDS Discharge Data	35	4	6	840
I–SATS Update [1]	56	67	0.08	300
State subtotal	56			2,388
Facilities				
N–SSATS Questionnaire	17,000	1	.6	10,200
Pretest of N–SSATS revisions	50	1	1	50
Prescreening of newly-identified facilities	2,000	1	.08	160
Mini-N–SSATS	700	1	.4	280
Facility Subtotal	19,000			10,690
Total	19,056			13,078

[1] States forward to SAMHSA information on newly licensed/approved facilities and on changes in facility name, address, status, etc. This is done electronically by nearly all States.

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: August 21, 2002.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 02–21729 Filed 8–26–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4734–N–40]

Notice of Submission of Proposed Loss Mitigation Evaluation

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comment Due Date: September 26, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0358) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as descried below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, of applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposed and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Loss Mitigation Evaluation.

OMB Approval Number: 2502–0523.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: Mortgagees servicing HUD insured mortgages are required to document all lost mitigation efforts for delinquent loans.

Respondents: Business or other for-profit.

Frequency of Submission: On occasion, monthly.

	Number of respondents	×	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	600		905		.25		135,795

Total Estimated Burden Hours: 135,795.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: August 20, 2002.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 02–21710 Filed 8–26–02; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Public Comment Period Extension and Four Public Open Houses for the Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge Comprehensive Conservation Plan and Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of public comment period and four public ''Open Houses'' for the Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge Comprehensive Conservation Plan and Environmental Impact Statement.

SUMMARY: This notice informs the public that the comment period for scoping issues to be evaluated in the Draft Comprehensive Conservation Plan and Draft Environmental Impact Statement for the Hanford Reach National Monument/Saddle Mountain National Wildlife Refuge (Monument) is extended to October 12, 2002, and public open houses are scheduled in Mattawa, Seattle, Richland, and Yakima, Washington. See **SUPPLEMENTARY INFORMATION** for public meeting dates and locations.

DATES: Comments must be received by the new deadline of October 12, 2002, at the address below. See **SUPPLEMENTARY INFORMATION** for Open House dates.

ADDRESSES: Address comments and requests for more information to: Greg Hughes, Project Leader, Hanford Reach National Monument, 3250 Port of Benton Blvd., Richland, Washington 99352, Fax (509) 375–0196. See **SUPPLEMENTARY INFORMATION** for Open House addresses.

FOR FURTHER INFORMATION CONTACT: Greg Hughes, Project Leader, or Dan Haas, Planning Team Leader, at phone: (509) 371–1801, or fax: (509) 375–0196.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Service published a notice of intent to prepare a Comprehensive Conservation Plan and associated Environmental Impact Statement for the Monument in the **Federal Register** on June 12, 2002, (Vol. 67, No. 113, pages 40333–40337). Comments were to be received on or before September 12, 2002. Public scoping meetings were to be held at locations and times to be specified in subsequent notices and news releases.

The Service is extending the comment period to provide additional opportunities for the public to provide comments at open houses. The new deadline for public comment is now extended to October 12, 2002. Comments already received are on record and need not be resubmitted. All comments received become part of the official public record.

Public open houses have been scheduled at the following dates, times, and locations.

1. August 28, 2002, from 6 p.m. to 9 p.m., at Wahluke High School, 502 N. Boundary, Mattawa, WA.

2. September 5, 2002, from 6 p.m. to 9 p.m., at the Radisson Hotel Seattle Airport, 17001 Pacific Highway South, Seattle, WA.

3. September 9, 2002, from 4 p.m. to 9 p.m., Consolidated Information Center, Washington State University Tri-Cities Campus, 2770 University Dr., Richland, WA.

4. September 17, 2002, 6 p.m. to 9 p.m., at the Yakima Convention Center, 10 N. 8th Street, Yakima, WA.

Dated: July 30, 2002.

Rowan W. Gould,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 02–21728 Filed 8–26–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–1820–AE]

Notice of Public Meeting: Northeast California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U. S. Department of the Interior, Bureau of Land Management (BLM) Northeast California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday and Friday, Oct. 17 and 18, 2002, in the Conference Center at John Asquaga's Nugget in Sparks, Nevada. On Oct. 17, the meeting begins at 1 p.m. Time for public comments has been set aside at 3 p.m. On Oct. 18, the council will convene at 7:30 a.m. in joint session with the BLM Sierra Front/ Northwestern Great Basin Resource Advisory Council.

FOR FURTHER INFORMATION CONTACT: Tim Burke, Field Manager, BLM Alturas Field Office, 708 West 12th St., Alturas, CA; or BLM Public Affairs Officer Joseph J. Fontana, telephone (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 15-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northeast California and Northwest Nevada. At this meeting, agenda topics include an update on conservation planning for sage grouse, western juniper management, and a status report on land use planning for northeast California and northwest Nevada lands. The council will also hear status reports from the managers of the BLM's Alturas, Eagle Lake and Surprise field offices. In the Oct. 18 joint session, the council members will hear a report from their National Conservation Area subcommittee, which has been assisting BLM with development of a draft management plan for the Black Rock Desert-High Rock Canyon-Emigrant Trails National Conservation Area. The council members will also hear a briefing on NCA management from the Black Rock-High Rock NCA staff.

All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: August 20, 2002.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 02–21712 Filed 8–26–02; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–BJ–4377] ES–51654, Group No. 153, Wisconsin

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plat of Survey; Wisconsin.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey, in two (2) sheets, of the lands described below in the BLM Eastern States Office, Springfield, Virginia, forty five (45) days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Indian Affairs and the Lac Courte Oreilles Tribal Governing Board because of extensive obliteration of original corner evidence within the reservation boundaries. The plat of survey represent the dependent resurvey of a portion of the south, east, west and north boundaries, a portion of the subdivisional lines, the subdivision of certain sections, the reestablishment of a portion of the record meander line, a survey of a portion of the present shoreline of Devils Lake, the apportionment of the shoreline to original lots 2 and 3 in section 23 and original lots 3, 4, 5 and 6 in section 26, and the corrective resurvey of a portion of the south and north boundaries, certain subdivisional lines and the subdivision of section 7, Township 39 North, Range 8 West, Fourth Principal Meridian, in the state of Wisconsin, and were accepted August 7, 2002.

We will place a copy of the plat previously described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: August 20, 2002.

Stephen D. Douglas,

Chief Cadastral Surveyor.

[FR Doc. 02–21730 Filed 8–26–02; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans; Nominations for Vacancies

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an ''Advisory Council on Employee Welfare and Pension Benefit Plans'' (the Council), which is to consist of 15 members to be appointed by the Secretary of Labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multi employer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multi employer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). No more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years. The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his or her functions under ERISA, and to submit to the Secretary, or his or her designee, recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on November 14, 2002. The groups or fields they represented are as follows:

- Employee organizations (this person must represent an organization whose members participate in a multi-employer plan);
- Corporate trust (a person representing financial institutions which serve as trustees or custodians for employee benefit plans);
- Investment management (an investment manager for a private-sector pension plan or a representative of an investment management firm);
- Employer (a single employer or a representative of an organization representing employer groups and interests); and
- General public (this member must represent persons actually receiving benefits from a private sector plan).

The Department of Labor is committed to equal opportunity in the workplace and seeks a broad-based and diverse ERISA Advisory Council membership.

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent a specific group or field listed in the preceding paragraph, may submit recommendations to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Suite N–5677, Washington, DC 20210. Recommendations must be delivered or mailed on or before October 1, 2002. Recommendations may be in the form of a letter, resolution or petition, signed by the person making the recommendation or, in the case of a recommendation by an organization, by an authorized representative of the organization.

Signed at Washington, DC, this 21st day of August, 2002.

Ann L. Combs,

Assistant Secretary of Labor, Pension and Welfare Benefits Administration.

[FR Doc. 02–21760 Filed 8–26–02; 8:45 am]

BILLING CODE 4510–23–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR 1218–0209 2002]

Proposed Information Collection Request Submitted for Public Comment and Recommendations; OSHA Data Initiative (1218–0209)

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized,

collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of the information collection request for the OSHA Data Initiative. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before October 28, 2002.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

ADDRESSES: Comments are to be submitted to the Docket Office, Docket No. ICR 1218–0209 2002, U.S. Department of Labor, Room N–2625, 200 Constitution Ave., NW., Washington, DC 20210, telephone (202) 693–2350. Written comments limited to 10 pages or less in length may be transmitted by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION: Dave Schmidt, Directorate of Information Technology, Office of Statistics, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3644, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–1886. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed to persons who request copies by telephoning Dave Schmidt at (202) 693–1886 or Todd Owen at (202) 693–2444. For electronic copies of the OSHA Data Initiative information collection request, contact OSHA's Web page on the Internet at *http://www.osha-slc.gov/OCIS/Info_coll.html.*

SUPPLEMENTARY INFORMATION:

I. Background

To meet many of OSHA's program needs, OSHA is proposing to continue its data initiative to collect occupational injury and illness data and information on the number of workers employed and the number of hours worked from establishments in portions of the private sector and from some state and local government agencies. OSHA will collect calendar year 2002 data from up to 109,000 employers already required to create and maintain records pursuant to 29 CFR part 1904. These data will allow OSHA to calculate occupational injury and illness rates and to focus its efforts on individual workplaces with ongoing serious safety and health problems. Successful implementation of the data collection initiative is critical to OSHA's outreach and enforcement efforts and the data requirements tied to the Government Performance and Results Act (GPRA).

II. Current Actions

This notice requests public comment on an extension of the current OMB approval of the paperwork requirements for the OSHA Data Initiative system.

Type of Review: Extension of currently approved collection.

Agency: Occupational Safety and Health Administration.

Title: OSHA Data Initiative.

OMB Number: 1218–0209.

Agency Number: ICR 1218–0209–2002.

Affected Public: Business or other for-profit, Farms, and State, Local or Tribal Government.

Cite/Reference/Form/etc: OSHA Form 196A and OSHA Form 196B.

Total Respondents: 109,000.

Frequency: Annually.

Average Time per Response: 10 minutes.

Estimated Total Burden Hours: 17,440 hours.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 16, 2002.

John L. Henshaw,

Assistant Secretary.

[FR Doc. 02–21758 Filed 8–26–02; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0202(2002)]

Standard on Hazardous Waste Operations and Emergency Response (HAZWOPER); Extension of the Office of Management and Budget's Approval of Information-Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for comment.

SUMMARY: OSHA requests comment concerning its proposed extension of the information-collection requirements specified by its Standard on Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120). Section 126(e) of the ''Superfund Amendments and Reauthorization Act of 1986'' (SARA)(Pub. L. 99–499) which became law on October 17, 1986, required the Secretary of Labor, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (the Act), to promulgate standards for the safety and health protection of employees engaged in hazardous waste operations and emergency response. Section 126(a) of SARA also specified that those standards were to become effective a year after publication. Section 126(b) lists 11 worker protections provisions that the Secretary of Labor had to include in OSHA's final standard. Those provisions require OSHA to address the preparation of various written programs, plans and records; the training of employees; the monitoring of airborne hazards; the conduct of medical surveillance; and the distribution of information to employees. The provisions also require the collection of information from employers engaged in hazardous waste operations and their emergency response to such operations. The final standard covers the provisions mandated in SARA.

DATES: Submit written comments on or before October 28, 2002.

ADDRESSES: Submit written comments to the Docket Office, Docket No. ICR–1218–0202(2002), OSHA, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20201; telephone: (202) 693–2350. Commenters may transmit written comments of 10 pages or less by facsimile to (202) 693–1648.

FOR FURTHER INFORMATION CONTACT: Theda Kenney, Directorate of Safety Standards Programs, OSHA, U.S.

Department of Labor, Room N–3609, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2222. A copy of the Agency's Information-Collection Request (ICR) supporting the need for the collections of information collection specified by the Standard on Hazardous Waste Operations and Emergency Response (HAZWOPER) is available for inspection and copying in the Docket Office, or by requesting a copy from Theda Kenney at (202) 693–2222, or Todd Owen at (202) 693–2444. For electronic copies of the ICR, contact OSHA on the Internet at *http://www.osha.gov* and select ''*Information Collection Requests.*''

SUPPLEMENTARY INFORMATION

1. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information-collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are understandable, and OSHA's estimate of the information-collection burden is correct.

The Standard specifies a number of collection of information (paperwork) requirements. Employers can use the information collected under the HAZWOPER rule to develop the various programs the standard requires and to ensure that their employees are trained properly about the safety and health hazards associated with hazardous waste operations and emergency response to hazardous waste releases. OSHA will use the records developed in response to this standard to determine compliance with the safety and health provisions. The employer's failure to collect and distribute the information required in this standard will affect significantly OSHA's effort to control and reduce injuries and fatalities. Such failure would also be contrary to the direction Congress provided in the Superfund Amendments and Reauthorization Act of 1986 (SARA).

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information-collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information-collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA proposes to extend the Office of Management and Budget's (OMB) approval of the collection-of-information requirements specified by the Standard on Hazardous Waste Operations and Emergency Response (HAZWOPER) (29 CFR 1910.120). The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB to extend the approval of these information-collection requirements.

Type of Review: Extension of a currently-approval information-collection requirement.

Title: Hazardous Waste Operations and Emergency Response (29 CFR 1910.120).

OMB Number: 1218–0202.

Affected Public: Business or other for-profit; not-for profit institutions, Federal government; State, local, or tribal governments.

Number of Respondents: 37,762.

Frequency of Recordkeeping: Varies (on occasion; annually).

Average Time per Response: Varies from five minutes (.08 hours) to 64 hours.

Total Annual Hours Requested: 1,404,369.

Total Annual Costs (O&M): $4,668,300.

IV. Authority and Signature

John L. Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), and Secretary of Labor's Order No. 3–2000 (65 FR 50017).

Dated: Signed at Washington, DC on August 21, 2002.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 02–21759 Filed 8–26–02; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Orphan Plans; Advisory Council on Employee Welfare and Pension Benefits Plans Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held Wednesday, September 18, 2002, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study orphan plans, which are plans abandoned by all plan fiduciaries designated to manage and operate the plans and their assets. Without a plan sponsor or fiduciary, participants and beneficiaries cannot receive pension distributions or make inquiries about their benefits.

The session will take place in Room N–5437 A–C, U.S. Department of Labor Building, Second and Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9:30 a.m. to approximately 4 p.m., is for working group members to hear testimony on the issue and discuss what they want to include in their report they are preparing for the Secretary of Labor.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 12, 2002, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Sharon Morrissey by September 12, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 12.

Signed at Washington, DC, this 21st day of August 2002.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 02–21761 Filed 8–26–02; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

119th Full Meeting of the Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 119th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held Thursday, September 19, 2002, in Conference Room N–5437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW, Washington, DC 20210.

The purpose of the meeting, which will begin at 4 p.m. and end at approximately 5 p.m., is for members to be updated on activities of the Pension and Welfare Benefits Administration and for chairs of this year's working groups to provide progress reports on their individual study topics.

Members of the public are encouraged to file a written statement pertaining to any topics the Council may be studying during 2002 by submitting 20 copies on before September 12, 2002 to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Suite N–5677, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their requests to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Sharon Morrissey by September 12 at the address indicated.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 12, 2002.

Signed at Washington, DC, this 21st day of August 2002.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 02–21762 Filed 8–26–02; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Electronic Reporting; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 142, a public meeting will be held Friday, September 20, 2002, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study electronic reporting. The purpose of the working group is to identify and prioritize opportunities for DOL to leverage the use of information and services to its key stakeholders, including plan participants and beneficiaries, plan sponsors, auditors, investment advisors and the general public.

The session will take place in Room N–5437 A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9 a.m. to approximately 3 p.m., with a one-hour lunch break at noon, is for working group members to hear from select witnesses on the issue.

Members of the public are encouraged to file a written statement pertaining to the topic by submitting 20 copies on or before September 12, 2002, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677, 200 Consitution Avenue, NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the reocrd. Individuals with disabilities who need special accommodations should contact Sharon Morrissey by September 12, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 12.

Signed at Washington, DC, this 21st day of August 2002.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 02–21763 Filed 8–26–02; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Working Group on Education and Training of Plan Fiduciaries; Advisory Council on Employee Welfare and Pension Benefits Plans; Notice of Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the Working Group assigned by the Advisory Council on Employee Welfare and Pension Benefit Plans to study the issue of educating and training plan fiduciaries will hold an open public meeting on Thursday, September 19, 2002, in Room N–5437, A–C, U.S. Department of Labor Building, 200 Constitution Avenue, NW, Washington, DC 20210. The purpose of the Working Group is to study means by which the Labor Department could effectively promote and improve the education and training of employee benefit plan fiduciaries.

The purpose of the open meeting, which will run from 9 a.m. to approximately 4 p.m. with a one-hour lunch break at noon, is for Working Group members to hear testimony from invited witnesses.

Members of the public are encouraged to file a written statement pertaining to the topic by sending 20 copies on or before September 12, 2002, to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5677,200 Constitution Avenue, NW, Washington, DC 20210. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary or telephone (202) 693–8668. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Sharon Morrissey by September 12, at the address indicated in this notice.

Organizations or individuals may also submit statements for the record

without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before September 12.

Signed at Washington, DC this 27th day of August, 2002.

Ann L. Combs,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 02–21764 Filed 8–26–02; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Fellowships Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Fellowships Advisory Panel, Literature Section (Poetry and Translation Fellowships) will be held on September 23–26, 2002 in Room M–07 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. A portion of this meeting, from 11 a.m. to 12:30 p.m., will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 6 p.m. on September 23, from 9 a.m. to 6:30 p.m. on September 24–25, and from 9 a.m. to 11 a.m. and 12:30 p.m. to 5 p.m. on September 26, will be closed.

The closed portions of this meeting are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of May 2, 2002, these sessions will be closed to the public pursuant to (c)(4)(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY-TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: August 21, 2002.

Kathy Plowitz-Worden,

Panel Coordinator, , Panel Operations, National Endowment for the Arts.

[FR Doc. 02–21745 Filed 8–26–02; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Leadership Initiatives Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Leadership Initiatives Advisory Panel, AccessAbility Section, will be held by teleconference from 2 p.m.–3:30 p.m. on Monday, September 9, 2002 in Room 528 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of May 2, 2002, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: August 21, 2002.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 02–21744 Filed 8–26–02; 8:45 am]

BILLING CODE 7537–01–P

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* Proposed rule, 10 CFR parts 72 and 73, ''Event Notification Requirements.''

3. *The form number if applicable:* Not applicable.

4. *How often the collection is required:* The information must be submitted following the occurrence of certain specified events. These events are infrequent and occur at unpredictable times. Following telephonic reports of some of these events, a followup written report must be submitted within 60 days of the initial telephonic report.

5. *Who is required or asked to report:* All specific licensees or general licensees who possess special nuclear material at fixed sites and in transit and plants in which special nuclear material is used.

6. *An estimate of the number of responses:* 212; 29 responses for part 72 and 183 responses for part 73.

7. *The estimated number of annual respondents:* 21 part 72 NRC licensees and 204 part 73 NRC licensees.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 3,300; part 72—707 reporting hours for NRC licensees; part 73—2,592 reporting hours for NRC licensees, or an average of 24 hours per response for part 72 and 13 hours per response for part 73.

9. *An indication of whether Section 3507(d), Public Law 104–13 applies:* Not applicable.

10. *Abstract:* Part 72 establishes licensing requirements for the independent storage of spent nuclear fuel and high-level radioactive waste. It prescribes requirements both for specific licenses for independent spent fuel storage installations and for general licenses for storage of spent fuel at

power reactor sites. Section 72.75 establishes reporting requirements for specific events and conditions, including both emergency notifications and non-emergency notifications, occurring at spent fuel storage installations. Some of the requirements are for information which must be submitted by telephone to NRC's Operations Center. Other requirements are for written followup reports. Section 72.216 specifies the applicability of the reporting requirements in 10 CFR 72.75. Part 73 establishes requirements for the physical protection of special nuclear material at fixed sites and in transit and of plants where special nuclear material is used. Section 73.71 establishes reporting requirements for safeguards events, including both initial telephone notification to the NRC Operations Center and written followup reports. Appendix G to part 73 defines the reportable safeguards.

Submit, by September 26, 2002, 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 submittal may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. The proposed rule indicated in ''The title of the information collection'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** Notice. The OMB clearance package and rule are available at the NRC worldwide web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice and are also available at the rule forum site, *http://ruleforum.llnl.gov.*

Comments and questions should be directed to the OMB reviewer by September 26, 2002: Bryon Allen, Office of Information and Regulatory Affairs (3150–0002 and –0132), NEOB–10202, Office of Management and Budget, Washington DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 20th day of August 2002.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–21748 Filed 8–26–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–27; License No. SNM–42]

BWX Technologies, Inc., Lynchburg, VA; Order Modifying License (Effective Immediately)

I

(BWXT) is the holder of Special Nuclear Material License SNM–42 issued by the U.S. Nuclear Regulatory (NRC or Commission) pursuant to 10 CFR part 70. BWXT is authorized by their license to receive, possess, and transfer byproduct, source material, and special nuclear material in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR part 70. The BWXT license, originally issued on August 22, 1956, was renewed on October 1, 1995, and is due to expire on September 30, 2005.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has been conducting a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by BWXT as prudent, interim measures to address the current threat environment. Therefore, the Commission is imposing interim requirements, set forth in Attachment 1 [1] of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment occurs, or if the Commission determines that other changes are needed.

The Commission recognizes that some of the requirements set forth in Attachment 1 [2] to this Order may already have been initiated by BWXT in response to previously issued advisories, or on its own. It is also recognized that some measures may need to be tailored to specifically accommodate the specific circumstances and characteristics existing at BWXT's facility to achieve the intended objectives and avoid any unforeseen effect on safe operation.

Although BWXT's response to the Safeguards and Threat Advisories has been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission believes that the response must be supplemented because of the current threat environment. As a result, it is appropriate to require certain security measures so that they are maintained within the established regulatory framework. In order to provide assurance that BWXT is implementing prudent measures to achieve an adequate level of protection to address the current threat environment, Special Nuclear Materials License SNM–42 shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR 2.202 and 70.81, I find that, in the circumstances described above, the public health, safety and interest and the common defense and security require that this Order be immediately effective.

III

Accordingly, pursuant to sections 63, 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10

[1] Attachment 1 contains classified information and will not be released to the public.

[2] To the extent that specific measures identified in Attachment 1 to this Order require actions pertaining to BWXT's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

CFR 2.202 and 10 CFR part 70, *it is hereby ordered, effective immediately, that special nuclear materials license SNM–42 is modified as follows:*

A. BWXT shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 1 to this Order. BWXT shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation, unless otherwise specified in Attachment 1 to this order, no later than February 28, 2003.

B.1. BWXT shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause BWXT to be in violation of the provisions of any Commission regulation or its license. The notification shall provide BWXT's justification for seeking relief from or variation of any specific requirement.

2. If BWXT considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact safe operation of its facility, BWXT must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirement in question, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, BWXT must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

C.1. BWXT shall, within twenty (20) days of the date of this Order, submit to the Commission, a schedule for achieving compliance with each requirement described in Attachment 1.

2. BWXT shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.

D. Notwithstanding any provision of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment occurs, or if the Commission determines that other changes are needed.

BWXT's responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 70.5. In addition, BWXT's submittals that contain classified information shall be properly marked and handled in accordance with 10 CFR 95.39.

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, modify, relax or rescind any of the above conditions upon demonstration by BWXT of good cause.

IV

In accordance with 10 CFR 2.202 and 70.81, BWXT must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which BWXT or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address, to the Regional Administrator, NRC Region II, Sam Nunn Atlanta Federal Center, Suite 23 T85, 61 Forsyth Street, SW, Atlanta, GA 30303–3415, and to BWXT if the answer or hearing request is by a person other than BWXT. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also by e-mail to *OGCMailCenter@nrc.gov*. If a person other than BWXT requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d). [3]

If a hearing is requested by BWXT or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), BWXT may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 21st day of August, 2002.

For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–21747 Filed 8–26–02; 8:45 am]

BILLING CODE 7590–01–P

[3] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things: (i) The nature of the petitioner's right under the Act to be made a party to the proceeding. (ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding. (iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest. (2) The admissibility of a contention, refuse to admit a contention if: (i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of the section; or (ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–352 and 50–353]

Exelon Generation Company, LLC; Notice of Consideration of Issuance of Amendments to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating Licenses Nos. NPR–39 and NPF–85 issued to Exelon Generation Company, LLC (the licensee) for operation of the Limerick Generating Station (LGS), Units 1 and 2, located in Montgomery County, Pennsylvania.

The proposed amendment would modify technical specification (TS) requirements for a missed surveillance through revision of Specifications 4.0.1 and 4.0.3. The delay period would be extended from the current limit of ''* * * up to 24 hours to permit the completion of the surveillance when the allowable outage time limits of the ACTION requirements are less than 24 hours'' to ''* * * up to 24 hours or up to the limit of the specified Surveillance time interval, whichever is greater.'' In addition, the following requirement would be added to Surveillance Requirement 4.0.3: ''A risk evaluation shall be performed for any Surveillance delayed greater than 24 hours and the risk impact shall be managed.'' The proposed revision would also add a TS Bases Control Program to the LGS TS.

The NRC staff issued a notice of opportunity for comment in the **Federal Register** on June 14, 2001 (66 FR 32400), on possible amendments concerning missed surveillances, including a model safety evaluation and model no significant hazards consideration (NSHC) determination, using the consolidated line item improvement process (CLIIP). The NRC staff subsequently issued a notice of availability of the models for referencing in license amendment applications in the **Federal Register** on September 28, 2001 (66 FR 49714). The licensee affirmed the applicability of the model NSHC determination for amendments concerning missed surveillances in its application dated May 14, 2002.

Additionally, two administrative changes are proposed. The first deletes the position of ''Sr. Manager—Operations'' and replaces it using an overall statement referencing the American National Standards Institute (ANSI)/American Nuclear Society (ANS) standard 3.1–1978 for ''Operations Manager''. The second administrative change revises the LGS TS requirement for Plant Operations Review Committee (PORC) member composition replacing ''Experience Assessment'' with ''Regulatory Assurance'' to reflect the licensee's organizational changes. The licensee provided its analysis of the issue of NSHC for these proposed changes in its application.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves NSHC. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), an analysis of the issue of NSHC is presented below:

Criterion 1—The Proposed Change Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

[Missed Surveillance]

The proposed change relaxes the time allowed to perform a missed surveillance. The time between surveillances is not an initiator of any accident previously evaluated. Consequently, the probability of an accident previously evaluated is not significantly increased. The equipment being tested is still required to be operable and capable of performing the accident mitigation functions assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly affected. Any reduction in confidence that a standby system might fail to perform its safety function due to a missed surveillance is small and would not, in the absence of other unrelated failures, lead to an increase in consequences beyond those estimated by existing analyses. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

[Administrative Changes]

The proposed TS and licensing basis changes are administrative changes to eliminate obsolete position and work group titles and incorporate the equivalent titles in use by EGC at other fleet nuclear facilities.

These changes do not involve any physical change to structures, systems, or components (SSCs) and does not alter the method of operation or control of SSCs. The current assumptions in the safety analysis regarding accident initiators and mitigation of accidents are unaffected by these administrative changes. No additional failure modes or mechanisms are being introduced and the likelihood of previously analyzed failures remains unchanged.

The integrity of fission product barriers, plant configuration, and operating procedures will not be affected by these changes. Therefore, the consequences of previously analyzed accidents will not increase because of these changes.

Based on the above discussion, the proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2—The Proposed Change Does Not Create the Possibility of a New or Different Kind of Accident From Any Previously Evaluated

[Missed Surveillance]

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. A missed surveillance will not, in and of itself, introduce new failure modes or effects and any increased chance that a standby system might fail to perform its safety function due to a missed surveillance would not, in the absence of other unrelated failures, lead to an accident beyond those previously evaluated. The addition of a requirement to assess and manage the risk introduced by the missed surveillance will further minimize possible concerns. Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

[Administrative Changes]

The proposed TS and licensing basis changes are administrative changes to eliminate obsolete position and work group titles and incorporate the equivalent titles in use by EGC at other fleet nuclear facilities.

The current accident analysis will remain valid following these administrative changes to TS. The changes will not alter the administrative functions that are currently in use. The qualification requirements for the individuals performing the affected TS administrative functions will remain unchanged.

The proposed TS changes do not affect plant design, hardware, system operation, or procedures; therefore, based on the above discussion, the proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Criterion 3—The Proposed Change Does Not Involve a Significant Reduction in the Margin of Safety

[Missed Surveillance]

The extended time allowed to perform a missed surveillance does not result in a significant reduction in the margin of safety. As supported by the historical data, the likely outcome of any surveillance is verification that the LCO [Limiting Condition for Operation] is met. Failure to perform a surveillance within the prescribed frequency does not cause equipment to become inoperable. The only effect of the additional time allowed to perform a missed surveillance on the margin of safety is the extension of the time until inoperable equipment is discovered to be inoperable by the missed surveillance. However, given the rare occurrence of inoperable equipment, and the rare occurrence of a missed surveillance, a missed surveillance on inoperable equipment would be very unlikely. This must be balanced against the real risk of manipulating the plant equipment or condition to perform the missed surveillance. In addition, parallel trains and alternate equipment are typically available to perform the safety function of the equipment not tested. Thus, there is confidence that the equipment can perform its assumed safety function. Therefore, this change does not involve a significant reduction in a margin of safety.

Based upon the reasoning presented above and the previous discussion of the amendment request, the requested change does not involve a significant hazards consideration.

[Administrative Changes]

The proposed TS and licensing basis changes are administrative changes to revise current position titles to reflect equivalent position titles in use by EGC at other fleet nuclear facilities.

The revision of the collective experience of the PORC membership to include Regulatory Assurance experience is equivalent to the current requirement for Experience Assessment experience. The functions of the Regulatory Assurance group remain essentially unchanged due to merger initiatives. The Regulatory Assurance group is the site process owner for the corrective action process (CAP), the self assessment process, the PORC process, the commitment tracking process, the operating experience process, support of NRC inspections and issue closure. Therefore, there is no reduction in PORC member qualification requirements due to this change.

The requirement for the ''Operations Manager'' to hold a senior reactor operator license is equivalent to the requirement for the Sr. Manager—Operations or an Operations Manager to hold a senior reactor operator license.

Based on the above discussion, the proposed TS changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's incorporation by reference of the analysis for missed surveillances which is part of the CLIIP, and the licensee's analysis of the administrative changes. Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves NSHC.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves NSHC. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 26, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714,[1] which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If there are problems in accessing the document, contact the Public Document Room Reference staff at 1–800–397–4209, 301–

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest.

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.''

415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of NSHC. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves NSHC, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of the continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the petition for leave to intervene and request for hearing should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Mr. Edward Cullen, Vice President, General Counsel and Secretary, Exelon Generation Company, LLC, 300 Exelon Way, Kennett Square, PA 19348, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 14, 2002, which is available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 21st day of August 2002.

For the Nuclear Regulatory Commission.

John P. Boska,

Acting Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–21749 Filed 8–26–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–143; License No. SNM–124]

Nuclear Fuel Services, Inc., Erwin, TN; Order Modifying License (Effective Immediately)

I

Nuclear Fuel Services, Inc. (NFS), is the holder of Special Nuclear Material License SNM–124 issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR part 70. NFS is authorized by their license to receive, possess, and transfer byproduct, source, and special nuclear material in accordance with the Atomic Energy Act of 1954, as amended, and 10 CFR part 70. The NFS license, originally issued on September 18, 1957, was renewed on July 2, 1999, and is due to expire on July 31, 2009.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. The Commission has also communicated with other Federal, State and local government agencies and industry representatives to discuss and evaluate the current threat environment in order to assess the adequacy of security measures at licensed facilities. In addition, the Commission has commenced a comprehensive review of its safeguards and security programs and requirements.

As a result of its consideration of current safeguards and security plan requirements, as well as a review of information provided by the intelligence community, the Commission has determined that certain compensatory measures are required to be implemented by NFS as prudent, interim measures to address the current threat environment. Therefore, the Commission is imposing interim requirements, set forth in Attachment 1 [1] of this Order, which supplement existing regulatory requirements, to provide the Commission with reasonable assurance that the public health and safety and common defense and security continue to be adequately protected in the current threat environment. These requirements will remain in effect pending notification from the Commission that a significant change in the threat environment occurs, or if the Commission determines that other changes are needed.

The Commission recognizes that some of the requirements set forth in Attachment 1 [2] to this Order may already have been initiated by NFS in response to previously issued advisories, or on its own. It is also recognized that some measures may need to be tailored to specifically accommodate the specific circumstances and characteristics existing at NFS's facility to achieve the intended objectives and avoid any unforeseen effect on safe operation.

Although NFS's response to the Safeguards and Threat Advisories has been adequate to provide reasonable assurance of adequate protection of public health and safety, the Commission believes that the response must be supplemented because of the current threat environment. As a result, it is appropriate to require certain security measures so that they are maintained within the established regulatory framework. In order to provide assurance that NFS is implementing prudent measures to achieve an adequate level of protection to address the current threat environment, Special Nuclear Materials License SNM–124 shall be modified to include the requirements identified in Attachment 1 to this Order. In addition, pursuant to 10 CFR 2.202 and 70.81, I find that, in the circumstances described above, the public health, safety and interest and the common defense and security require that this Order be immediately effective.

III

Accordingly, pursuant to Sections 63, 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 70, *it is hereby ordered, effective immediately, that special nuclear materials license SNM–124 is modified as follows:*

A. NFS shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 1 to this Order. NFS shall immediately start implementation of the requirements in Attachment 1 to the Order and shall complete implementation, unless otherwise specified in Attachment 1 to this order, no later than February 28, 2003.

B. 1. NFS shall, within twenty (20) days of the date of this Order, notify the Commission, (1) if it is unable to comply with any of the requirements described in Attachment 1, (2) if compliance with any of the requirements is unnecessary in its specific circumstances, or (3) if implementation of any of the requirements would cause NFS to be in violation of the provisions of any Commission regulation or its license. The notification shall provide NFS's justification for seeking relief from or variation of any specific requirement.

2. If NFS considers that implementation of any of the requirements described in Attachment 1 to this Order would adversely impact safe operation of its facility, NFS must notify the Commission, within twenty (20) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 1 requirement in question, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, NFS must supplement its response to Condition B1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B1.

C. 1. NFS shall, within twenty (20) days of the date of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 1.

2. NFS shall report to the Commission when it has achieved full compliance with the requirements described in Attachment 1.

D. Notwithstanding any provision of the Commission's regulations to the contrary, all measures implemented or actions taken in response to this Order shall be maintained pending notification from the Commission that a significant change in the threat environment occurs, or until the Commission determines that other changes are needed.

NFS's responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 70.5 SNM–124. In addition, NFS's submittals that contain classified information shall be properly marked and handled in accordance with 10 CFR 95.39

The Director, Office of Nuclear Material Safety and Safeguards, may, in writing, modify, relax or rescind any of the above conditions upon demonstration by NFS of good cause.

IV

In accordance with 10 CFR 2.202 and 70.81, NFS must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within twenty (20) days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer

[1] Attachment 1 contains classified information and will not be released to the public.

[2] To the extent that specific measures identified in Attachment 1 to this Order require actions pertaining to NFS's possession and use of chemicals, such actions are being directed on the basis of the potential impact of such chemicals on radioactive materials and activities subject to NRC regulation.

consents to this Order, the answer shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which NFS or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Material Safety and Safeguards, and the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement, at the same address, to the Regional Administrator, NRC Region II, Sam Nunn Atlanta Federal Center, Suite 23 T85, 61 Forsyth Street, SW., Atlanta, GA 30303–3415, and to NFS if the answer or hearing request is by a person other than NFS. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also by e-mail to *OGCMailCenter@nrc.gov.* If a person other than NFS requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).[3]

If a hearing is requested by the licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

[3] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things: (i) The nature of the petitioner's right under the Act to be made a party to the proceeding. (ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding. (iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest. (2) The admissibility of a contention, refuse to admit a contention if: (i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of the section; or (ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.

Pursuant to 10 CFR 2.202(c)(2)(i), NFS may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section III above shall be final twenty (20) days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 21st day of August 2002.
For the Nuclear Regulatory Commission.

Martin J. Virgilio,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 02–21746 Filed 8–26–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of August 26, September 2, 9, 16, 23, 30, 2002.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of August 26, 2002

There are no meetings scheduled for the Week of August 26, 2002.

Week of September 2, 2002—Tentative

There are no meetings scheduled for the Week of September 2, 2002.

Week of September 9, 2002—Tentative

There are no meetings scheduled for the Week of September 9, 2002.

Week of September 16, 2002—Tentative

There are no meetings scheduled for the Week of September 16, 2002.

Week of September 23, 2002—Tentative

There are no meetings scheduled for the Week of September 23, 2002.

Week of September 30, 2002—Tentative

Tuesday, October 1, 2002

9:25 a.m.—Affirmation Session (Public Meeting) (If needed)

9:30 a.m.—Briefing on Decommissioning Activities and Status (Public Meeting) (Contact: John Buckley, 301–415–6607)

This meeting will be webcast live at the Web address—*httpp://www.nrc.gov.*

Wednesday, October 2, 2002

10 a.m.—Briefing on Strategic Workforce Planning and Human Capital Initiatives (Closed—Ex. 2)

*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: R. Michelle Schroll (301) 415–1662.

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

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: August 22, 2002.

R. Michelle Schroll,

Acting Technical Coordinator, Office of the Secretary.

[FR Doc. 02–21886 Filed 8–23–02; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Budget Analysis Branch; Sequestration Update Report

AGENCY: Office of Management and Budget—Budget Analysis Branch.

ACTION: Notice of transmittal of the Sequestration Update Report to the President and Congress for Fiscal Year 2003.

SUMMARY: Pursuant to section 254(b) of the Balanced Budget and Emergency Control Act of 1985, as amended, the Office of Management and Budget hereby reports that it has submitted its Sequestration Update Report for Fiscal Year 2003 to the President, the Speaker of the House of Representatives, and the President of the Senate.

FOR FURTHER INFORMATION CONTACT: Sarah Lee, Budget Analysis Branch—202/395–3674.

Dated: August 21, 2002.

Stephen A. Weigler,

Deputy Assistant Director for Administration.

[FR Doc. 02–21695 Filed 8–26–02; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27562]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

August 21, 2002.

Notice is hereby given that the following filing has been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application/declaration for a complete statements of the proposed transaction summarized below. The application/declaration is available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application/declaration should submit their views in writing by September 16, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant/declarant at the address specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After September 16, 2002, the application/declaration, as filed or as amended, may be granted and/or permitted to become effective.

Entergy Corporation (70–9749)

Entergy Corporation (''Entergy''), a registered public utility holding company, 639 Loyola Avenue, New Orleans, LA 70113, has filed a post-effective amendment under sections 6(a) and 7 of the Act and rule 54 under the Act to its previously filed application-declaration (''Application'').

By order dated April 3, 2001 (HCAR No. 27371) the Commission authorized, among other things, Entergy to issue and sell through June 30, 2004 (''Authorization Period'') short-term debt in the form of notes to banks (''Notes'') or commercial paper (''Paper,'' and collectively with ''Notes,'' ''Short-Term Debt'') that will not exceed an outstanding aggregate principal amount of $1.5 billion.

In this post-effective amendment, Entergy requests authority to issue and sell from time to time through the Authorization Period additional Short-Term Debt in an aggregate principal amount at any time outstanding not to exceed $2 billion. Terms and conditions of Short-Term Debt previously authorized continue to apply to additional Short-Term Debt issued under this authority.

Entergy will use the proceeds from the financings for general corporate purposes, including (i) financing, in part, investments by and capital expenditures of Entergy and its subsidiaries, (ii) the repayment, redemption, refunding or purchase by Entergy of any of its securities under rule 42, and (iii) financing working capital requirements of Entergy and its subsidiaries.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21777 Filed 8–26–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25714; 812–11794]

National Equity Trust and Prudential Investment Management Services LLC; Notice of Application

August 21, 2002.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: The requested order would supersede a prior order [1] and permit a terminating series of a unit investment trust to sell portfolio securities to a new series of the unit investment trust.

APPLICANTS: National Equity Trust (the ''Trust''), Prudential Investment Management Services LLC (the ''Sponsor''), and certain current or future unit investment trusts sponsored by the Sponsor (together with the Trust, the ''Trusts,'' and their series, the ''Series'').

FILING DATES: The application was filed on October 6, 1999, and amended on August 19, 2002.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving 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 September 16, 2002, 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 Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 5th Street, NW., Washington, DC 20549–0609. Applicants, c/o Richard Hoffman, Prudential Investment Management Services LLC, 100 Mulberry Street, Newark, NJ 07102.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 942–0527 or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. The Trust is a unit investment trust registered under the Act and sponsored by the Sponsor. Each Series will be created under the laws of one of the United States pursuant to a trust agreement, which will contain information specific to that Series, and which will incorporate by reference a master trust indenture between the Sponsor and a financial institution that is a bank within the meaning of section 2(a)(5) of the Act and that satisfies the criteria in section 26(a) of the Act (the ''Trustee''). Applicants also request relief for any future Series sponsored by the Sponsor.[2]

[1] *National Equity Trust, et al.*, Investment Company Act Release Nos. 21135 (June 14, 1995) (notice) and 21197 (July 11, 1995) (order).

[2] All entities that currently intend to rely on the order are named as applicants. Any existing or future Series that relies on the order will comply with the terms and conditions of the application.

2. Each Series will hold a portfolio of equity securities of domestic and/or foreign companies. The Series generally are designed to seek either capital appreciation and/or dividend income.

3. Applicants state that many, if not all, securities in each Series' portfolio will be either (a) securities listed by the Sponsor on a ''top picks'' list disseminated to customers and the general public as securities recommended for purchase (''Top Picks Securities'') and have (i) a minimum market capitalization of U.S. $1 billion and (ii) had an average daily trading volume in the preceding 60 trading days of at least 50,000 shares equal in value to at least U.S. $250,000 on an Exchange, as defined below, or (b) other securities that are actively traded (*i.e.*, have had an average daily trading volume in the preceding six months of at least 500 shares and equal in value to at least U.S. $25,000) on an Exchange which is: (i) A national securities exchange which meets the qualifications of section 6 of the Securities Exchange Act of 1934, (ii) a foreign securities exchange which meets the qualifications set forth in the proposed amendments to rule 12d3–1(d)(6) under the Act [3] and that releases daily closing prices, or (iii) the Nasdaq-National Market System (the securities meeting these requirements are referred to in this notice as ''Securities'').

4. Each Series will terminate on a date after a specified period, generally one or two years. The Sponsor intends that, as each Series terminates, a new Series (''New Series'') having the same or a similar investment objective or investment strategy, will be offered for the next period.

5. Each Series has a date or dates (the ''Rollover Date'') on which unitholders in that Series (the ''Rollover Series'') may at their option redeem their units in the Rollover Series and receive in return units of the New Series, which will be created on or about the Rollover Date. Applicants anticipate that there will be some overlap in the Securities selected for the portfolios of each Rollover Series and the related New Series.

6. Applicants request an order to permit a Rollover Series to sell to a New Series, and a New Series to purchase from a Rollover Series, Securities at the closing sales prices of the Securities on an Exchange on the dates the Securities are sold (each a ''Sale Date''). Absent the requested relief, Securities common to both Series must be purchased or sold in the securities markets rather than purchased or sold between the Series. This would result in both Series, and thus the unitholders, incurring brokerage commissions on Securities.

Applicants' Legal Analysis

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include, in pertinent part, any person directly or indirectly controlling, controlled by or under common control with, such other person. Each Series will be sponsored by the Sponsor. Because the Sponsor may be deemed to control a Series, each Series may be deemed to be under common control and an affiliated person of all the other Series.

2. Rule 17a–7 under the Act permits registered investment companies that might be deemed affiliated persons solely by reason of having common investment advisers, directors, and/or officers, to purchase securities from, or sell securities to, one another at an independently determined price, provided certain conditions are met. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraphs (e) and (f).

3. Paragraph (e) of rule 17a–7 requires an investment company's board of directors to adopt and monitor certain procedures to assure compliance with the rule. Paragraph (f) of the rule requires that a majority of the investment company's board of directors not be interested persons, as defined in section 2(a)(19) of the Act (''disinterested directors''), of the company and that the disinterested directors have independent legal counsel. Because a unit investment trust does not have a board of directors, the Trust would be unable to comply with these requirements.

4. Section 17(b) of the Act provides that the Commission will exempt a proposed transaction from section 17(a) if evidence establishes that: (a) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment companies involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act provides that the Commission may exempt classes of transactions if the exemption is necessary or appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request relief under sections 6(c) and 17(b) to permit a Rollover Series to sell Securities to a New Series and to permit the New Series to purchase the Securities.

5. Applicants state that the terms of the proposed transactions meet the standards of sections 6(c) and 17(b). Applicants represent that purchases and sales of Securities between Series will be consistent with the policy of each Series. Applicants state that to minimize the possibilities of overreaching, applicants agree that the Sponsor will certify to the Trustee, within five days of each sale from a Rollover Series to a New Series, (a) that the transaction is consistent with the policy of both the Rollover Series and the New Series, as recited in their respective registration statements and reports filed under the Act, (b) the date of the transaction, and (c) the closing sales price on the Exchange for Securities on the Sale Date. The Trustee will then countersign the certificate, unless, in the unlikely event that the Trustee disagrees with the closing sales price listed on the certificate, the Trustee immediately informs the Sponsor orally of the disagreement and returns the certificate within five days to the Sponsor with corrections duly noted. Upon the Sponsor's receipt of a corrected certificate, if the Sponsor can verify the corrected price by reference to an independently published list of closing sales prices for the date of the transactions, the Sponsor will ensure that the price of units of the New Series, and distributions to holders of the Rollover Series with regard to redemption of their units or termination of the Rollover Series, accurately reflect the corrected price. To the extent that the Sponsor disagrees with the Trustee's corrected price, the Sponsor and the Trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

[3] *See* Investment Company Act Release No. 17096 (Aug. 3, 1989) (proposing amendments to rule 12d3–1). The proposed amended rule defined a ''Qualified Foreign Exchange'' to mean a stock exchange in a country other than the United States where: (a) Trading generally occurred at least four days a week; (b) there were limited restrictions on the ability of registered investment companies to trade their holdings on the exchange; (c) the exchange had a trading volume in stocks for the previous year of at least U.S. $ 7.5 billion; and (d) the exchange had a turnover ratio for the preceding year of at least 20% of its market capitalization. The version of the amended rule that was adopted did not include the part of the proposed amendment defining the term ''Qualified Foreign Exchange.''

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each sale of Securities by a Rollover Series to a New Series will be effected at the closing price of the Securities sold on the applicable Exchange on the Sale Date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to investors in the appropriate prospectus of each Rollover Series and New Series.

3. The Trustee of each Rollover Series and New Series will (a) review the procedures discussed in the application relating to the sale of Securities from a Rollover Series and the purchase of Securities for deposit in a New Series and (b) make such changes to the procedures as the Trustee deems necessary that are reasonably designed to comply with paragraphs (a) through (d) of rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to the order will be maintained as provided in rule 17a–7(g).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21778 Filed 8–26–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [67 FR 54506, August 22, 2002].

STATUS: Open meetings/closed meetings.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, August 27, 2002 at 10 a.m., Wednesday, August 28, 2002 at 10 a.m., and Thursday, August 29, 2002, at 10 a.m.

CHANGE IN THE MEETING: Additional meeting/time change/delete items.

An additional Open Meeting will be held on Wednesday, August 28, 2002, at 10 a.m., in Room 1C30, the William O. Douglas Room. The Closed Meeting previously announced to be held on Wednesday, August 28, 2002 at 10 a.m., has been rescheduled to immediately follow the open meeting on Wednesday, August 28, 2002.

The following additional item will be considered at an Open Meeting scheduled for Tuesday, August 27, 2002, at 10 a.m.:

The Commission will consider whether to adopt rules that would require a registered investment company's principal executive and financial officers to certify Form N–SAR, implementing Section 302 of the Sarbanes-Oxley Act of 2002. In addition, the Commission will consider whether to propose amendments to its rules and forms that would (1) Designate the shareholder reports of management investment companies as reports filed under the Securities Exchange Act of 1934, and (2) require each registered management investment company's principal executive officer and principal financial officer to certify the information contained in its shareholder reports in the manner required by Section 302 of the Sarbanes-Oxley Act of 2002.

The following item previously scheduled for the open meeting on Tuesday, August 27, 2002, at 10 a.m., is now scheduled for the open meeting on Wednesday, August 28, 2002, at 10 a.m.:

The Commission will consider whether the National Association of Securities Dealers, Inc. (''NASD'') and the Nasdaq Stock Market, Inc. (''Nasdaq'') have satisfied the conditions that must be implemented prior to or at the same time as Nasdaq's implementation of a new order display and collection facility (''SuperMontage''). The conditions, which were imposed by the Commission in a prior order granting conditional approval of the SuperMontage, include an alternative display facility established by the NASD for the display of market maker and ECN quotes.

The following items will not be considered at the closed meeting scheduled for Wednesday, August 28, 2002, immediately following the 10 a.m. open meeting:

Formal orders of investigation;

Litigation matter;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

The following items have been added to the closed meeting scheduled for Thursday, August 29, 2002:

Formal orders of investigation;

Litigation matter;

Regulatory matter bearing enforcement implications;

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Commissioner Goldschmid, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

For further information please contact the Office of the Secretary at (202) 942–7070.

Dated: August 22, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21961 Filed 8–23–02; 1:33 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46384; File No. SR–Amex–2002–64]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment Nos. 1 and 2 by the American Stock Exchange LLC to Suspend Transaction Charges for Certain Exchange Traded Funds

August 20, 2002.

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 July 26, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Amex amended the proposed rule change on August 14, 2002.[3] On August 15, 2002, the Amex again amended the proposed rule change.[4] The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act,[5] and Rule 19b–4(f)(6)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* August 12, 2002 letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, and attachments (''Amendment No. 1''). Amendment No. 1 completely replaced and superseded the original filing.

[4] *See* August 14, 2002 letter from Geraldine Brindisi, Vice President and Corporate Secretary, Amex, to Nancy Sanow, Assistant Director, Division, Commission, and attachments (''Amendment No. 2''). In Amendment No. 2, the Amex added the text of the Regulatory Fee to the Equity Fee Schedule. The text was inadvertently omitted from Amendment No. 1. For purposes of calculating the 60-day abrogation period, the Commission considers the period to have commenced on August 15, 2002, the date the Amex filed Amendment No. 2.

[5] 15 U.S.C. 78s(b)(3)(A).

thereunder,[6] which renders the proposal effective upon filing with the Commission.[7] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to suspend Exchange transaction charges for the Lehman 1–3 year Treasury Bond Fund; iShares Lehman 7–10 year Treasury Bond Fund; Lehman 20+ year Treasury Bond Fund; and iShares GS $ InvesTop Corporate Bond Fund for (1) customer orders, and (2) until August 31, 2002, specialist, Registered Trader and broker-dealer orders. The text of the proposed rule change is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The Amex 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 Exchange is suspending transaction charges for transactions in the iShares Lehman 1–3 year Treasury Bond Fund (Symbol: SHY); iShares Lehman 7–10 year Treasury Bond Fund (Symbol: IEF); iShares Lehman 20+ year Treasury Bond Fund (Symbol: TLT); and iShares GS $ InvesTop™ Corporate Bond Fund (Symbol: LQD) (Funds) for (1) customer orders indefinitely, and (2) until August 31, 2002, specialist, Registered Trader, and broker-dealer orders.

Off-Floor orders (*i.e.*, customer and broker-dealer) in these securities currently are charged $.006 per share ($.60 per 100 shares), capped at $100 per trade (16,667 shares). Orders entered electronically into the Amex Order File (System Orders) from off the Floor for up to 5,099 shares are currently not assessed a transaction charge, but System Orders over 5,099 shares currently are subject to a $.006 per share transaction charge, capped at $100 per trade. Exchange transaction charges applicable to customer orders are now suspended. The suspension for customer orders is for an indefinite time period, and the Exchange will file a proposed rule change if it determines to end the suspension and impose transaction charges for customer orders in these securities.

Specialists in these securities are charged $0.0063 ($.63 per 100 shares), capped at $300 per trade (47,619 shares). Registered Traders in these securities are charged $.0073 ($.73 per 100 shares), capped at $350 per trade (47,945 shares). Transaction charges for specialist, Registered Trader, and broker-dealer orders are suspended until August 31, 2002.

The Exchange believes a suspension of fees for these securities is appropriate to enhance the competitiveness of executions in these securities on the Amex. The Exchange will reassess the fee suspension as appropriate, and will file a proposed rule change for any modification to the fee suspension with the Commission.

The Exchange is amending the Equities Fee Schedule to indicate that transaction charges have been suspended for the Funds. In addition, the Amex is amending the Equities Fee Schedule to refer to the suspension of transaction charges for specified Exchange Traded Funds and HOLDRs, as previously filed with the Commission.[8]

2. *Statutory Basis*

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(4)[10] in particular in that it is intended to assure the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.[11]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and Rule 19b–4(f)(6) thereunder.[13] At any time within 60 days of the filing of the proposed rule change,[14] the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Amex has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will permit the Amex to suspend these fees immediately. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[15]

[6] 17 CFR 240.19b–4(f)(6).

[7] Rule 19b–4(f)(6) under the Act requires the Amex to provide the Commission with five business days notice of its intention to file a non-controversial proposed rule change. The Amex did not provide such notice, but the Commission has decided to waive the notice requirement. The Amex asked the Commission to waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

[8] *See* Securities Exchange Act Release Nos. 44698 (August 14, 2001), 66 FR 43926 (August 21, 2001)(for SPDRs®, Nasdaq 100® Index Tracking Stock, DIAMONDS® and iShares S&P 500 Index Fund); and 45773 (April 17, 2002), 67 FR 20558 (April 25, 2002)(for MidCap SPDRs™, Select Sector SPDRs and HOLDRs™).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] Although there are inconsistencies in the Amex's original filing, Amendment No. 1, and Amendment No. 2 with regard to the Amex's Statement on Burden on Competition, the Amex confirmed that it believes the proposed rule change will impose no burden on competition. August 19, 2002 telephone conversation between Michael Cavalier, Associate General Counsel, Amex, and Joseph Morra, Special Counsel, Division of Market Regulation, Commission.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] *See* footnote 4, *supra*.

[15] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal 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 Amex. All submissions should refer to file number SR-Amex-2002–64 and should be submitted by September 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21772 Filed 8–26–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46391; File No. SR–DTC–2002–07]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Filing of the ''About Deposits'' Service Guide

August 21, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 21, 2002, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of the implementation of a Service Guide pertaining to deposits.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In January of 2001, DTC submitted a rule filing which constituted a restatement of certain sections of DTC's Participant Operating Procedures (''POP'') and Participant Terminal System (''PTS'') Manual.[3] Both the POP and the PTS Manual are hardcopy, multi-volume manuals that, among other things, provide participants with procedures and information pertaining to a number of DTC services and describe and document functions and applications of DTC systems.

In that rule filing, DTC explained that both the POP and the PTS Manual would better serve participants and other authorized users if they were restated together utilizing modern electronic media. As a result, DTC is developing Service Guides to replace all POP and PTS Manual documentation, and DTC has filed Service Guides for the following DTC services: Custody, Dividends, Reorganization, Settlement, and Underwriting.

In this filing, a new Service Guide is being added for deposits. The ''About Deposits'' Service Guide will replace POP Section B (Deposits) as well as POP Section L (Depository Facilities). However, no substantive changes to DTC's procedures are being made at this time.

The Service Guide updates will be implemented upon filing and are available to participants and other authorized users through CD–ROM, which contains current Service Guides, POP, and PTS Manual information, and through the Internet at DTC's web site *http://www.dtc.org/*. The two formats contain the same information and are similar in functionality. DTC updates such information on its web site on a monthly basis and distributes CD–ROM updates on a quarterly basis.[4]

The proposed rule change is consistent with the requirements of Section 17A of the Act[5] and the rules and regulations thereunder applicable to DTC because the proposed rule change will contribute to the ease of use of DTC's services. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible because the proposed rule change enhances the utilization of DTC's existing services.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Rule filing SR–DTC–2001–01 dealt with the original Service Guides which were developed through discussions with a number of participants. This rule filing deals with a new guide which replaces certain portions of POP but makes no substantive changes to current DTC procedures. Therefore, written comments from participants or others have not been solicited or received on this proposed rule change. DTC will notify the Commission of any written comments received by DTC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i)[6] of the Act and Rule 19b–4(f)(1)[7] promulgated thereunder because the proposal constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self regulatory organization. At any time within sixty days of the filing of such

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[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] Securities Exchange Act Release No. 44719 (August 17, 2001), 66 FR 44656 [SR–DTC–2001–01].

[4] DTC will provide the Commission with above-mentioned CD–ROMs upon issuance each quarter. The Commission has been granted access to those screens on DTC's web site which contain the Service Guides and related information.

[5] 15 U.S.C. 78q–1.

[6] 15 U.S.C. 78s(b)(3)(A)(i).

[7] 17 CFR 240.19b–4(f)(1).

proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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 Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–2002–07 and should be submitted by September 17, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21775 Filed 8–26–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46385; File No. SR–NSCC–2002–06]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Imposition of Fines

August 20, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 26, 2002, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') and on August 19, 2002, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would clarify NSCC's rules with regard to the imposition of fines upon its members and would more specifically identify the actions or inactions of members that would result in fines being imposed upon them.[2] In addition, a technical correction is proposed to be made to NSCC Rule 48, Disciplinary Proceedings, to conform the rule to other changes that were made effective by Release No. 34–36866.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC's Rule 48 allows NSCC to impose fines upon its members for any error, delay, or other conduct that is determined to be detrimental to the operations of NSCC. Historically, NSCC has imposed fines upon members for failures to settle in a timely manner end of day settlement balances, for late settlement acknowledgements, and for late payments of clearing fund deposits.

NSCC's Rule 15 permits NSCC to request that members furnish to NSCC such adequate assurances of their financial responsibility and operational capability as NSCC may at any time deem necessary. Pursuant to this rule and in furtherance of NSCC's responsibility, NSCC periodically requests that its members provide financial and operational information about their business. While many members comply with these requests, some do not. The lack of this information could create risk for NSCC. To address this concern, NSCC proposes to fine members who fail to timely respond to requests for information.

In connection with imposing fines for failure to timely provide requested financial and operational information, NSCC would notify all members that it requires certain information on an ongoing basis and that failure to provide the information would result in a fine being imposed with such fining commencing three months after the Commission approves the proposed rule change. For a period of one year from that date, members that fail to timely provide information would be issued one warning letter prior to the imposition of the fine. At the conclusion of the one-year period, NSCC would discontinue the warning letters prior to fining.

In addition to the above, members have an affirmative duty to notify NSCC on an ongoing basis of certain internal conditions that may cause NSCC to reevaluate the member's continued participation. NSCC is proposing to fine members that fail to meet these notification requirements. Upon learning of an event upon which the member failed to provide timely notification, NSCC would impose a fine. No reminder letter would be sent in this context.

Participants would continue to have the ability to contest fines, as currently provided for within NSCC's rules and procedures. Fines imposed against settling members would be collected through a miscellaneous charge in the member's monthly statement of charges. Fines imposed against settling bank members may be collected through an adjustment to the settling bank's end-of-day settlement balance, through a separate fed wire, or through checks made payable to NSCC. Alternatively, if the settling bank maintains additional memberships with NSCC, the fine may be collected through a settling account under its additional membership.

In conjunction with the above, NSCC proposes making a technical correction to Rule 48 Disciplinary Proceedings. In Release No. 34–36866, the Commission approved an NSCC rule change to accommodate same-day funds

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Exhibit 1 to this notice sets forth NSCC's proposed revisions.

[3] Securities Exchange Act Release No. 36866 (February 27, 1996), 61 FR 7288 [File No. NSCC–96–03] (order modifying NSCC's Rules and Procedures to accommodate same-day funds settlement).

[4] The Commission has modified parts of these statements.

settlement (''SDFS'').[5] This rule change, in part, created Addendum P that set SDFS Failure to Settle fines in the range of $100 to $10,000. At that time, Section 1 of Rule 48 should have been modified to change the maximum fine for any single offense from $5,000 to $10,000, and a reference to settling bank only members should also have been included.

NSCC believes that the proposed rule change is consistent with Section 17A of the Act and the rules and regulations thereunder because it ensures that NSCC is able to safeguard securities and funds in NSCC's possession.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change would have any impact on or impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the File No. SR–NSCC–2002–06 and should be submitted by September 17, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

Exhibit 1: Text of Proposed Changes to NSCC's Rules and Procedures

Addendum P

Fine Schedule

(1) SDFS Failure-To-Settle and Late Acknowledgment Fines

Net Debit	First occasion	Second occasion	Third occasion	Fourth occasion
$0—100,000	$100	$200	$500	$1,000
$100,000—900,000	300	600	1,500	3,000
$900,000—1,700,000	600	1,200	3,000	6,000
$1,700,000—2,500,000	900	1,800	4,500	9,000
$2,500,000—up	1,000	2,000	5,000	10,000

Notes: (a) In addition to the fine, interest is charged to the Member, or the Settling Bank Only Member, that failed to settle for the cost of borrowing to complete settlement.

(b) The number of occasions will be determined over a moving three-month period. A Member, or a Settling Bank Only Member, that exceeds four failure-to-settle occasions in a three-month period will be subject to further fees and/or other actions at the Corporation's discretion after consultation between the Member, or the Settling Bank Only Member, and the Corporation.

(c) If the Corporation determines that it had significantly affected a Member's, or a Settling Bank Only Member's, ability to settle (because of a Corporation system delay, for example), the Corporation may determine to waive failure-to-settle fines for that occurrence.

(2) Failure to notify and supply required data as provided for under these Rules & Procedures (other than as provided in items one, three and four of this addendum): Each single offense, $5,000.00 fine.

(3) Late Satisfaction of Clearing Fund Deficiency Call [1]

Amount	First occasion	Second occasion	Third occasion	Fourth occasion (or greater)
Up to $100 M	*	$100	$200	$500
$100 M to $900 M	*	300	600	1,500
$900 M to $1.7 MM	*	600	1,200	3,000
$1.7 MM to $2.5 MM	*	900	1,800	4,500
Greater than $2.5 MM	*	1,000	2,000	5,000

* First occasions result in a warning letter issued to the Member.

[5] *Supra* note 3.

[6] 17 CFR 200.30–3(a)(12).

[1] The number of occasions is determined over a moving three-month period beginning with the first occasion.

(4) Requests For Information [2]

Request for information (Failure to timely provide)	First occasion	Second occasion	Third occasion	Fourth occasion
Financial Statements:				
Audited Financial Statements for Member or Parent	*	$300	$600	$1,500
Monthly and/or Quarterly Regulatory Filings	*	300	600	1,500
Monthly and/or Quarterly Financial Statements	*	300	600	1,500
Proforma Financial Statements	*	300	600	1,500
Any Financial Computations, Consolidating Worksheets or Internal Statements, Upon Special Request	*	300	600	1,500
Risk Questionnaires/Profiles.				
Questionnaires	*	150	300	750
Profiles	*	150	300	750
Risk Management Policies and Procedures	*	150	300	750
Disaster Recovery Procedures	*	150	300	750

*First occasions result in a warning letter issued to the Member. Warning Letters for first occasion violations will be discontinued one year after implementation of this schedule, at which time each violation will be subject to imposition of a fine.

[FR Doc. 02–21774 Filed 8–26–02; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46389; File No. SR–NSCC–2002–05]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change to Amend Clearing Fund Requirements and Letters of Credit Collaterization

August 21, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 16, 2002, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') and on July 25, 2002, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by the NSCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to increase the minimum amount of cash that must be deposited by members, except for Mutual Fund/Insurance Services Members, to satisfy clearing fund requirements and to limit the amount of a deposit that may be collateralized with letters of credit.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under NSCC's current rules, each member, except for Mutual Fund/Insurance Services Members, is required to maintain a minimum contribution to the clearing fund of $10,000. The first $10,000 of a member's contribution must be in cash unless all or a part of the member's contribution is collateralized with letters of credit, in which case the greater of $50,000 or ten percent of the member's contribution up to a maximum of $1,000,000 is required to be in cash. On a peak settlement day, if members only deposit the minimum cash required at any given time, NSCC might only be assured of a limited amount of cash thereby creating the possibility of a liquidity risk at NSCC. Furthermore, because NSCC expects an increase in members' reliance on the Collateral Management System, NSCC also expects an increase in members' requesting the return of excess cash.[3]

To assure NSCC of more cash to meet liquidity needs, NSCC proposes to modify Procedure XV (Clearing Fund Formula and Other Matters) of its Rules and Procedures to require that the first 40% of a member's clearing fund contribution must be in cash unless the member's clearing fund requirement is $10,000 or less in which case the entire contribution must be in cash.[4] NSCC also proposes to amend Rule 4 (Clearing Fund) of its Rules and Procedures to reduce from 70% to 25% the percentage of members' required deposit to the clearing fund that may be collateralized with letters of credit.

Based on NSCC's current calculations, the proposed change in the percentage of cash that must be deposited to the clearing fund will impact approximately 48 member firms. The proposed change reducing the permitted use of letters of credit will affect 21 of the approximately 33 member firms that post such letters. NSCC intends to implement these clearing fund changes no earlier than 30 days after the Commission approves the proposed rule change. Mutual Fund/Insurance Services Members' cash contribution to and letters of credit requirements for the clearing fund will remain unchanged.

[2] Fines to be levied for offenses within a moving twelve-month period beginning with the first occasion.

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by the NSCC.

[3] The Collateral Management System (''CMS'') provides automated access to information on members' clearing fund, margin, and other deposits at NSCC and at other participating clearing entities. CMS allows participants to more efficiently manage their various clearing fund and margin deposits by providing electronic access to consolidated data regarding the underlying collateral held at multiple clearing agencies and allows participating clearing entities the ability to view common members' clearing fund and margin deposits at other clearing entities. See Securities Exchange Act Release Nos. 36091 (August 10, 1995), 60 FR 42931 (August 17, 1995) [SR–NSCC–95–06] (order approving the establishment of CMS); 40740 (December 3, 1998), 63 FR 67962 (December 9, 1998) [SR–NSCC–98–10] (order approving modification to CMS).

[4] The current version of Procedure XV (Version 1) is being revised by NSCC and the new version (Version 2) will be applicable to members on a rolling basis. The rule change proposes to amend clearing fund procedures in Procedure XV.A.I.(a) in Version 1 and Procedure XV.II.(A) of Version 2.

NSCC believes that the proposed rule filing is consistent with section 17A of the Act because it will permit NSCC to have adequate liquidity resources to assure the safeguarding of funds securities for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments relating to the proposed rule change have been solicited or received. NSCC will notify the Commission of any written comments it receives.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of the NSCC. All submissions should refer to File No. SR–NSCC–2002–05 and should be submitted by September 17, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–21776 Filed 8–26–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46382; File No. SR–PCX–2002–41]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. To Amend the Original Listing Criteria for Underlying Securities in PCX Rule 3.6

August 20, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on July 25, 2002, the Pacific Stock Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On August 6, 2002, the Exchange filed an amendment to the proposed rule change.[3] As amended, the proposed rule change is effective upon filing with the Commission, pursuant to Section 19(b)(3)(A) of the Act,[4] and Rule 19b–4(f)(6) thereunder.[5] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend PCX Rule 3.6 in order to provide alternative original listing criteria for individual equity options that, but for the requirement that the underlying security be at least $7.50, meet the criteria for listings in PCX Rule 3.6.

The text of the proposed rule change appears below. New text is in italics; deletions are in brackets.

* * * * *

Rule 3.6. OPTIONS

Rule 3.6. The underlying securities of option contracts traded on the Exchange shall be approved for Exchange transactions by the Board of Governors following the recommendation of the Options Listing Committee. In approving underlying securities, both the Options Listing Committee and the Board shall give due regard to, and the Board shall promulgate guidelines relative to, the following factors:

(a) Underlying securities approved for Exchange transactions shall have, in the absence of exceptional circumstances, the following characteristics:

(1) A minimum of 7,000,000 shares shall be owned by persons other than those required to report their stock holdings under Section 16(a) of the Securities Exchange Act of 1934;

(2) A minimum of 2,000 shareholders;

(3) Trading volume (in all markets which the stock is traded) of at least 2,400,000 shares in the preceding twelve months;

(4) *Either (i) the* [The] market price per share of the underlying security *will* [shall] have been at least $7.50 for the majority of business days during the three calendar months preceding the date of selection, as measured by the lowest closing price reported [6] in any market in which the underlying security traded on each of the subject days; *or (ii)(a) the underlying security meets the guidelines for continued listing in Rule 3.7; (b) options on such underlying security are traded on at least one other registered national securities exchange; and (c) the average daily trading volume for such options over the last three (3) calendar months preceding the date of selection has been at least 5,000 contracts;* and

(5) The issuer is in compliance with any applicable requirements of the Securities Exchange Act of 1934.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed

[5] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mai S. Shriver, Senior Attorney, Regulatory Policy, PCX, to Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, faxed August 6, 2002 (''Amendment No. 1''). Amendment No. 1 corrects a typographical error in the rule text by replacing the word ''recorded'' with the word ''reported.''

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b-4(f)(6).

[6] *See* Amendment No. 1, *supra* note 3.

any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PCX Rule 3.6 sets forth the criteria that an underlying individual equity security must meet before the Exchange may initially list options on that security. Specifically, PCX Rule 3.6(a)(4) provides that the market price per share of the underlying security must have been at least $7.50 for the majority of business days during the three calendar months preceding the date of selection for listing. The Exchange's other initial listings guidelines provide that: (1) The underlying security consists of a large number of outstanding shares held by non-affiliates of the issuer; (2) the underlying security is actively-traded; (3) there are a large number of holders of the underlying security; and (4) the underlying security continues to be listed on a national securities exchange or traded through the facilities of a national securities association.

Although these criteria are generally uniform among the options exchanges, the Commission has recently approved proposed rule changes submitted by the International Securities Exchange LLC (''ISE'') and the American Stock Exchange (''Amex'') that eliminate a requirement that the market price per share of an underlying security be at least $7.50 when such options are otherwise listed and traded on another options exchange and have an average daily trading volume (''ADTV'') over the last three (3) calendar months of at least 5,000 contracts.[7] Therefore, so long as options meet the maintenance requirement on exchanges that already trade them, the ISE and Amex may list new options for trading those options despite the fact that the underlying security no longer meets the initial listing requirements.[8]

Consistent with the rules of the ISE and Amex, the Exchange proposes an alternative original listing requirement applicable to the underlying security's price during the three calendar months preceding an options listing. Specifically, the Exchange proposes to amend its rules to provide that, for underlying securities that satisfy all of the initial listing requirements of Rule 3.6, other than the $7.50 per share price requirement, the Exchange would be permitted to list options on the securities so long as: (1) The underlying security meets the guidelines for continued approval contained in PCX Rule 3.7; (2) options on such underlying security are traded on at least one other registered national securities exchange; and (3) the ADTV for such options over the last three calendar months preceding the date of selection has been at least 5,000 contracts.

The Exchange believes that this proposal is narrowly drafted to address the circumstances where an actively-traded option issue is currently ineligible for listing on the PCX while at the same time, it is trading on another options exchange. The Exchange also believes the proposed alternative original listing criteria's limitation to cover only those options that are actively traded (*i.e.*, options with an ADTV of at least 5,000 contracts over the least three calendar months) should allay any concerns regarding the listing of options that may be inappropriate. Because these options are actively traded in other markets, the Exchange believes that there would be no investor protection concerns with listing such options on the Exchange and that listing these options on the Exchange would enhance competition and benefit investors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement of Section 6(b) of the Act[9] in general and furthers the objectives of Section 6(b)(5) of the Act[10] in particular, in that the Exchange has rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and paragraph (f)(6) of Rule 19b–4[12] thereunder because it does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate; and the Exchange has given the Commission written notice of its intention to file the proposed rule change at least five business days prior to filing. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission notes that under Rule 19b–4(f)(6)(iii), the proposal does not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative date. The Exchange contends that acceleration of the operative date is consistent with the protection of investors and the public interest because the language of this proposed rule is substantially similar to rule language that was put out for notice and comment when ISE and the Amex submitted their proposed rule changes. For this reason, consistent with Section 19(b)(2) of the Act,[13] the Commission designates the proposal to be effective

[7] *See* Securities Exchange Act Release No. 45220 (December 31, 2002), 67 FR 760 (January 7, 2002) (SR–ISE–2001–33); Securities Exchange Act Release No. 45505 (March 5, 2002), 67 FR 10941 (March 11, 2002) (SR–Amex–2002–13).

[8] The Exchange's maintenance requirements are less stringent. In particular, additional series may be added pursuant to PCX Rule 3.7, Commentary .02, if the underlying security is at least $3 in the primary market. The Exchange states that this less stringent maintenance standard is permitted, in part, because the Exchange's other guidelines assure that options would be listed and traded on securities of companies that are financially sound and subject to adequate minimum standards.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 15 U.S.C. 78s(b)(2).

and operative upon filing with the Commission.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. 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 PCX. All submissions should refer to File No. SR–PCX–2002–41 and should be submitted by September 17, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H McFarland,

Deputy Secretary.

[FR Doc. 02–21773 Filed 8–26–02; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF STATE

Bureau of Intelligence and Research

[Public Notice 4083]

Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union; Notice of Committee Renewal

I. Renewal of Advisory Committee

The Department of State has renewed the Charter of the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union. This advisory committee makes recommendations to the Secretary of State on funding for applications submitted for the Research and Training Program on Eastern Europe and the Independent States of the Former Soviet Union (Title VIII). These applications are submitted in response to an annual, open competition among U.S. national organizations with interest and expertise administering research and training programs in the Russian, Eurasian, and Central and East European fields. The program seeks to build and sustain U.S. expertise on these regions through support for advanced graduate training, language training, and postdoctoral research.

The committee includes representatives of the Secretaries of Defense and Education, the Librarian of Congress, and the Presidents of the American Association for the Advancement of Slavic Studies and the Association of American Universities. The Assistant Secretary for Intelligence and Research chairs the advisory committee for the Secretary of State. The committee meets at least annually to recommend grant policies and recipients.

For further information, please call Susan Nelson, INR/RES, U.S. Department of State, (202) 736–4610.

Dated: August 21, 2002.

Kenneth E. Roberts,

Executive Director, Advisory Committee for Study of Eastern Europe and the Independent States of the Former Soviet Union, Department of State.

[FR Doc. 02–21769 Filed 8–26–02; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF STATE

[Public Notice 4084]

FY 2002 Funding under the Research and Training for Eastern Europe and The Independent States of the Former Soviet Union Act of 1983 (Title VIII)

Deputy Secretary of State Richard L. Armitage approved on May 22, 2002, the FY 2002 funding recommendations of the Advisory Committee for the Study of Eastern Europe and the Independent States of the Former Soviet Union. The Title VIII program, administered by the U.S. Department of State, seeks to build expertise on the countries of Eurasia and Central and East Europe through support to national organizations in the U.S. for advanced research, language and graduate training, and other activities conducted domestically and on-site. The FY 2002 grant recipients are listed below.

1. American Council of Learned Societies

Grant: $480,000 (EE).

Purpose: To support dissertation and post-doctoral research fellowships; institutional language training grants in the U.S. covering the basic languages of Central and East Europe; individual language training fellowships; and the Junior Scholars' Training Seminar with the Woodrow Wilson Center.

Contact: Andrzej Tymowski, Executive Associate, American Council of Learned Societies, 663 Third Avenue, 8C, New York, NY 10017–6795. (212) 697–1505 (ext. 134/135). Fax (212) 949–8058. e-mail: *ANDRZEJ@acls.org.*

2. American Councils for International Education

Grant: $490,000 ($420,000–NIS, $70,000–EE/B).

Purpose: To support on-site individual language training fellowships in advanced Russian, the non-Russian languages of Eurasia, and the Central European languages; the Research Scholars and Junior Faculty fellowships; and the Combined Language Training and Research fellowships, including a Special Research Initiative on Central Asia; Research Scholar and Junior Faculty research fellowships.

Contact: Graham Hettlinger, American Councils for International Education, 1776 Massachusetts Avenue, NW, Suite 700, Washington, DC 20036. (202) 833–7522. Fax (202) 833–7523. e-mail: *Hettlinger@actr.org.*

3. The William Davidson Institute of the University of Michigan Business School

Grant: $210,000 (120,000–NIS; $90,000–EE/B).

Purpose: To support grants for pre- and post-doctoral research projects on economic and business development and public policy to develop free markets in the Balkans, Central Asia, and the Caucasus.

Contact: Deborah Jahn, Administrative Director, The William Davidson Institute, University of Michigan Business School, 724 East University Avenue, Ann Arbor, MI 48109–1234. (734) 615–4562. Fax (734) 763–5850. e-mail: *djahn@umich.edu.*

4. University of Illinois at Urbana-Champaign

Grant: $160,000 ($130,000–NIS; $30,000–EE/B).

Purpose: To support the Summer Research Laboratory, which provides dormitory housing and access to the University's library for advanced research, and the Slavic Reference Service, which locates materials unavailable through regular interlibrary loan.

Contact: Dianne Merridith, Program Administrator, Russian and East

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

European Center, University of Illinois at Urbana-Champaign, 104 International Studies Building, 910 South Fifth Street, Champaign, IL 61820. (217) 333–1244. Fax (217) 333–1582. e-mail: *reec@uiuc.edu.*

5. International Research and Exchanges Board

Grant: $705,000 ($440,000–NIS; $265,000–EE/B).

Purpose: To support Individual Advanced Research Opportunities at the pre- and post-doctoral levels for on-site research; Short-term Travel Grants for senior scholars; a Regional Policy Symposium on Central Asia and Its Neighbors, in conjunction with the Woodrow Wilson Center; dissemination activities; and Policy Forums.

Contact: Joyce Warner, Director, Academic Exchanges and Research Division, International Research and Exchanges Board, 2121 K Street, NW., Suite 700, Washington, DC 20037. (202) 628–8188. Fax (202) 628–8189. e-mail: *jwarner@irex.org.*

6. National Council for Eurasian and East European Research

Grant: $1,175,000 ($900,000–NIS; $275,000–EE/B).

Purpose: To support the post-doctoral National Research Program of research contracts for collaborative projects and fellowship grants for individuals; Policy Research Fellowships in Eurasia and Central and East Europe for junior post-doctoral scholars; Short-term research grants to focus on Central Asia, Caucasus, and the Balkans; and the Ed. A. Hewett Fellowship Program to allow a scholar to work on a research project for up to a year while serving in a USG agency.

Contact: Robert Huber, President, National Council for Eurasian and East European Research, 910 17th Street, NW., Suite 300, Washington, DC 20006. (202) 822–6950. Fax (202) 822–6955. e-mail: *nceeerdc@aol.com.*

7. Social Science Research Council

Grant: $760,000 ($730,000–NIS, $30,000–Baltics).

Purpose: To support pre-doctoral fellowships, including advanced graduate and dissertation; post-doctoral fellowships; a dissertation workshop on understudied regions; and the institutional language programs for advanced Russian, other Eurasian languages, and the Baltic languages.

Contact: Seteney Shami, Program Director, Social Science Research Council, 810 7th Avenue, 31st Floor, New York, NY 10019. (212) 377–2700. Fax (212) 377–2727. e-mail: *shami@ssrc.org.*

8. The Woodrow Wilson Center for International Scholars

Grant: $770,000 ($490,000–NIS; $280,000–EE/B).

Purpose: To support the residential programs for post-doctoral Research Scholars, Short-term Scholars and Interns; the Meetings, Outreach and Publications Programs of the Kennan Institute for Advanced Russian Studies and East European Studies of the European Program, including the Kennan's Workshop on Conflict in the Former Soviet Union, and the East European Program's Junior Scholars' Training Seminar with the American Council of Learned Societies.

Contact: Nancy Popson, Deputy Director, Kennan Institute, (202) 691–4100. Fax (202) 691–4247. e-mail: *popsonna@wwic.si.edu*; or, Martin Sletzinger, Director, East European Studies, The Wilson Center, 1300 Pennsylvania Avenue, NW., Washington, DC 20004–3027. (202) 691–4263. Fax (202) 691–4247. e-mail: *CrisenSa@wwic.si.edu*.

Dated: August 21, 2002.

Kenneth E. Roberts,

Executive Director, Advisory Committee for Study of Eastern Europe and Independent States of the Former Soviet Union, Department of State.

[FR Doc. 02–21770 Filed 8–26–02; 8:45 am]

BILLING CODE 4710–32–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Application of BNJ Charter Company, L.L.C. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2002–8–19), Dockets OST–02–14145 and OST–02–14147.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding BNJ Charter Company, L.L.C., fit, willing, and able, and awarding it certificates of public convenience and necessity to engage in interstate and foreign charter air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than September 3, 2002.

ADDRESSES: Objections and answers to objections should be filed in Dockets OST–02–14145 and OST–02–14147 and addressed to the Department of Transportation Dockets (SVC–124.1, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Delores King, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2343.

Dated: August 20, 2002.

Read C. Van De Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 02–21804 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice 02–1]

Senior Executive Service Performance Review Boards Membership

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Performance Review Board (PRB) appointments.

SUMMARY: DOT publishes the names of the persons selected to serve on the various Departmental PRBs as required by 5 U.S.C. 4314(c)(4).

FOR FURTHER INFORMATION CONTACT: Mari Barr Santangelo, Departmental Director, Office of Human Resource Management, (202) 366–4088.

SUPPLEMENTARY INFORMATION: The persons named below have been selected to serve on one or more Departmental PRBs.

Issued in Washington, DC, on August 21, 2002.

Melissa J. Allen,

Assistant Secretary for Administration.

Federal Railroad Administration

Jane H. Bachner, Deputy Associate Administrator for Industry and Intermodal Policy, Federal Railroad Administration

Mark Yachmetz, Associate Administrator for Railroad Development, Federal Railroad Administration

Robert Gould, Associate Administrator for Public Affairs, Federal Railroad Administration

Rosalind A. Knapp, Deputy General Counsel, Office of the Secretary

Jerry Hawkins, Director, Office of Human Resources, Federal Highway Administration

Federal Transit Administration

Janet L. Sahaj, Deputy Associate Administrator, Office of Program

Management, Federal Transit Administration
William P. Sears, Chief Counsel, Federal Transit Administration
Bruce J. Carlton, Associate Administrator for Policy and International Trade, Maritime Administration
Rosalind A. Knapp, Deputy General Counsel, Office of the Secretary
Glenda Tate, Assistant Administrator for Human Resource Management, Federal Aviation Administration

Office of Inspector General

Thomas J. Bondurant, Assistant Inspector General for Investigations, Department of Justice
Michael Phelps, Deputy Assistant Inspector General for Auditing, Department of Housing and Urban Development
Judith J. Gordon, Assistant Inspector General for Systems Evaluation, Department of Commerce
Nancy Hendricks, Assistant Inspector General for Audit, Federal Emergency Management Agency
Adrienne Rish, Assistant Inspector General for Investigations, Agency for International Development
Joseph R. Willever, Deputy Inspector General, Office of Personnel Management
Elissa Karpf, Assistant Inspector General for Planning, Analysis, & Results, Environmental Protection Agency
Gregory S. Seybold, Assistant Inspector General for Investigations, Department of Agriculture
Carol L. Levy, Assistant Inspector General for Investigations, Defense Contract Investigative Service
Emmett D. Dashiell, Deputy Assistant Inspector General for Investigations, Environmental Protection Agency

United States Coast Guard

RADM K.T. Venuto, Assistant Commandant for Human Resources, United States Coast Guard
RADM J.A. Kinghorn, Assistant Commandant for Systems, United States Coast Guard
RADM (SEL) S. Rochon, Director, Office of Intelligence and Security, United States Coast Guard
RADM H.E. Johnson, Director, Operations Capability, United States Coast Guard
Janet L. Sahaj, Deputy Associate Administrator, Office of Program Management, Federal Transit Administration
Jerry Hawkins, Director, Office of Human Resources, Federal Highway Administration
Jean McKeever, Associate Administrator for Shipbuilding, Maritime Administration
Roberta Gabel, Assistant General Counsel for Environmental, Civil Rights, and General Law, Office of the Secretary
William Outlaw, Associate Administrator for Public Affairs, Federal Highway Administration

National Highway Traffic Safety Administration

Delmas Johnson, Associate Administrator for Administration, National Highway Traffic Safety Administration
William Walsh, Associate Administrator for Plans and Policy, National Highway Traffic Safety Administration
Kenneth Weinstein, Associate Administrator for Safety Assurance, National Highway Traffic Safety Administration
Jacqueline Glassman, Chief Counsel, National Highway Traffic Safety Administration
Michael Vecchetti, Associate Administrator for Administration, Federal Highway Administration
Dorrie Aldrich, Associate Administrator for Administration, Federal Transit Administration

Federal Highway Administration

George Ostensen, Associate Administrator for Safety, Federal Highway Administration
James Rowland, Chief Counsel, Federal Highway Administration
Dwight A. Horne, Director, Office of Program Administration, Federal Highway Administration
Michael J. Vecchietti, Associate Administrator for Administration, Federal Highway Administration
Jane Bachner, Deputy Associate Administrator for Industry and Intermodal Policy, Federal Railroad Administration

Maritime Administration

Robert B. Ostrom, Chief Counsel, Maritime Administration
Margaret D. Blum, Associate Administrator for Port, Intermodal and Environmental Activities, Maritime Administration
James E. Caponiti, Associate Administrator for National Security, Maritime Administration
Jean E. McKeever, Associate Administrator for Shipbuilding, Maritime Administration
Jerry A. Hawkins, Director, Office of Human Resources, Federal Highway Administration

Office of the Secretary, Transportation Administrative Service Center, Bureau of Transportation Statistics

Michael Dannenhauer, Director, Executive Secretariat, Office of the Secretary
Paul Gretch, Director, Office of International Aviation, Office of the Secretary
Randall Bennett, Director, Office of Aviation and International Economics, Office of the Secretary
Roberta D. Gabel, Assistant General Counsel for Environmental, Civil Rights, and General Law, Office of the Secretary
Susan Lapham, Associate Director for Statistical Programs and Services Bureau of Transportation Statistics
Patricia Prosperi, Principal, TASC Information Services, Transportation Administrative Service Center
Edward L. Thomas, Associate Administrator for Research, Demonstration and Innovation, Federal Transit Administration

Research and Special Programs Administration

Christopher W. Strobel, Special Assistant, Office of the Secretary
King W. Gee, Associate Administrator for Infrastructure, Federal Highway Administration
Patricia A. Prosperi, Principal, TASC Information Services, Transportation Administrative Service Center

Federal Motor Carrier Safety Administration

Brian McLaughlin, Associate Administrator for Policy and Program Development, Federal Motor Carrier Safety Administration
Jeffrey Lindley, Director, Office of Travel Management, Federal Highway Administration
Jerry Hawkins, Director, Office of Human Resources, Federal Highway Administration
Thomas Herlihy, Assistant General Counsel for Legislation, Office of the Secretary
Susan Binder, Director, Office of Legislation and Strategic Planning, Federal Highway Administration
William Outlaw, Associate Administrator for Public Affairs, Federal Highway Administration

[FR Doc. 02–21782 Filed 8–26–02; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–52]

Petitions for Exemption; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions for exemption.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, Vanessa Wilkins (202) 267–8029,or Denise Emrick (202) 267–5174, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 22, 2002.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2002–12729.
Petitioner: Evergreen Helicopters of Alaska, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Evergreen Helicopters to operate certain aircraft under part 135 without a TSC–C112 (Mode S) transponder installed in the aircraft. *Grant/July 25, 2002, Exemption No. 7843*

Docket No.: FAA–2002–12009.
Petitioner: Chautauqua Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/Disposition: To permit Chautauqua to substitute a qualified and authorized check airman in place of an FAA inspector to observe a qualifying pilot in command (PIC) while that PIC is performing prescribed duties during at least one flight leg that includes a takeoff and a landing when completing initial or upgrade training as specified in § 121.424. *Grant/July 17, 2002, Exemption No. 7353A*

Docket No.: FAA–2002–12401.
Petitioner: HeliFlite Shares, LLC
Section of 14 CFR Affected: 14 CFR 135.151(a).
Description of Relief Sought/Disposition: To permit HeliFlite to operate a rotorcraft seating six or more passengers and requiring two pilots, without equipping the rotorcraft with an approved cockpit voice recorder (CVR). *Denial/July 17, 2002, Exemption No. 7839*

Docket No.: FAA–2002–12339.
Petitioner: Flight Alaska, Inc.
Section of 14 CFR Affected: 14 CFR 135.152(a).
Description of Relief Sought/Disposition: To permit Flight Alaska Inc to operate one Beechcraft King Air 200 airplane, serial No. BB–483, registration No. N250FN, in a 13-seat configuration under part 135 without that airplane being equipped with one or more digital flight data recorders (DFDR). *Denial/July 18, 2002, Exemption No. 7838*

Docket No.: FAA–2002–11933.
Petitioner: Continental Express
Section of 14 CFR Affected: 14 CFR 121.434(c)(1)(ii).
Description of Relief Sought/Disposition: To permit Continental to substitute a qualified and authorized check airman for an FAA inspector to observe a qualifying pilot in command (PIC) perform prescribed duties during at least one flight leg that includes a takeoff and a landing when the PIC is completing initial or upgrade training as specified in § 121.424. *Grant/July 23, 2002, Exemption No. 6798B*

Docket No.: FAA–2002–12733.
Petitioner: High Adventure Air Charter, Guides and Outfitters, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit High Adventure to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant/July 24, 2002, Exemption No. 7842*

Docket No.: FAA–2002–12727.
Petitioner: Talon Air Service, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Talon to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant/July 25, 2002, Exemption No. 7846*

Docket No.: FAA–2002–12751.
Petitioner: F.S. Air Service, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit F.S. Air Service to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant/July 25, 2002, Exemption No. 7845*

Docket No.: FAA–2002–12719.
Petitioner: Pathfinder Aviation, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Pathfinder to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant/July 25, 2002, Exemption No. 7844*

Docket No.: FAA–2000–8338.
Petitioner: Air Cargo Express.
Section of 14 CFR Affected: 14 CFR 121.345(c)(2) and 135.143(c)(2).
Description of Relief Sought/Disposition: To permit Air Cargo Express to operate certain aircraft under parts 121 and 135 without a TSO–C112 (Mode S) transponder installed on those aircraft. *Grant/July 29, 2002, Exemption No. 7403B*

Docket No.: FAA–2002–12718.
Petitioner: ARCH Air Medical Service, Inc.
Section of 14 CFR Affected: 14 CFR 135.143(c)(2).
Description of Relief Sought/Disposition: To permit ARCH to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed in the aircraft. *Grant/July 31, 2002, Exemption No. 7848*

[FR Doc. 02–21783 Filed 8–26–02; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development (R, E & D) Advisory Committee

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development (R, E & D) Advisory Committee.

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

Name: Research, Engineering & Development Advisory Committee.

Time and Date: September 30—9 a.m.–5 p.m., October 1—10 a.m.–5 p.m.

Place: Holiday Inn Rosslyn Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia 22209.

Purpose: On September 30 from 9 a.m–5 p.m. and October 1 from 10 a.m.–12 noon the meeting agenda will include receiving from the Committee guidance for FAA's research and development investments in the areas of air traffic services, airports, aircraft safety, security, human factors and environment and energy. A joint session will be held on October 1 from 1 p.m. to 5 p.m. with NASA's Aerospace Technology Advisory Committee. The planned agenda includes a briefing on the 21st Century Aviation Systems and a discussion on issues and activities that impact both groups.

Attendance is open to the interested public but limited to space available. Persons wishing to attend the meeting or obtain information should contact Gloria Dunderman at the Federal Aviation Administration, AAR–200, 800 Independence Avenue, SW., Washington, DC 20591 (202) 267–8937 or *gloria.dunderman@faa.gov.*

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC, on August 20, 2002.

Herman A. Rediess,

Director, Office of Aviation Research.

[FR Doc. 02–21784 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Scott County, MN

AGENCY: Federal Highway Administration (HFWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed extension of County State Aid Highway (CSAH) 21 from CSAH 42 on the south to CSAH 18 on the north in Scott County, Minnesota.

FOR FURTHER INFORMATION CONTACT: Cheryl Martin, Federal Highway Administration, Galtier Plaza, 380 Jackson Street, Suite 500, St. Paul, Minnesota 55101, Telephone (651) 291–6120; or Bradley Larson, Public Works Director/County Highway Engineer, Scott County Public Works Division, Highway Department, 600 Country Trail East, Jordan, Minnesota 55352–9339, Telephone (952) 496–8346.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Scott County Highway Department will prepare an EIS on a proposal to extend CSAH 21 as a four-lane expressway, from CSAH 42 on the south to CSAH 18 on the north, a distance of approximately 2.5 miles.

A scoping process will be used to identify the alternatives and issues to be addressed in the EIS. The EIS will evaluate the social, economic, transportation and environmental impacts of alternatives. The ''Scott County CSAH 21 Scoping Document/ Draft Scoping Decision Document'' will be published in the Spring 2003. A press release will be published to inform the public of the document's availability. Copies of the scoping document will be distributed to agencies, interested persons and libraries for review to aid in identifying issues and analyses to be contained in the EIS.

A thirty-day comment period for review of the document will be provided to afford an opportunity for all interested persons, agencies and groups to comment on the proposed action. A public scoping meeting will also be held during the comment period. Public notice will be given for the time and place of the meeting.

A Draft EIS, which will be prepared based on the outcome of the scoping process, will be available for agency and public review and comment. In addition, a public hearing will be held following completion of the Draft EIS. Public Notice will be given for the time and place of the public hearing on the Draft EIS.

Coordination has been initiated and will continue with appropriate Federal, State and local agencies and private organizations and citizens who have previously expressed or are known to have an interest in the proposed action. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: August 19, 2002.

Stanley M. Graczyk,

Project Development Engineer, Federal Highway Administration, St. Paul, Minnesota.

[FR Doc. 02–21708 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor Vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before September 26, 2002.

Address Comments to: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the application (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590 or at *http://dms.dot.gov.*

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on August 22, 2002.

R. Ryan Posten,

Exemptions Program Officer, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
13057–N	RSPA–02–12819	MINTEQ International Inc., Easton, PA.	49 CFR 172 Subparts D, E & F, 173.24(c) Subparts E&F of Part 173.	To authorize the transportation in commerce of metal tubing containing hazardous materials to be transported with minimal regulation. (modes 1, 2, 3)
13076–N	RSPA–02–12820	Pencor Reservoir Fluid Specialists, Broussard, LA.	49 CFR 173.34(d), 178.35(e).	To authorize the transportation in commerce of non-DOT specification cylinders manufactured under DOT–E 11990 without the rupture disk pressure relief device for use in transporting various classes of hazardous materials. (modes 1, 2, 3, 4)
13077–N	RSPA–02–12821	MacIntyre, Middlebury, VT	49 CFR 174.67(i) & (j)	To authorize rail cars to remain standing with dry brake on during unloading without the physical presence on an unloader. (mode 2)
13078–N	RSPA–02–13000	E.I. duPont de Nemours & Co., Wilmington, DE.	49 CFR 173.31(b)(3)(i), 173.31(b)(4)(i).	To authorize the transportation in commerce of tank cars without head and thermal protection for use in transporting Class 2 material. (mode 2)
13080–N	RSPA–02–12999	Pressed Steel Tank Co., Milwaukee, WI.	49 CFR 173.300a, 173.301(h), 173.304, 173.34(e).	To manufacture, marking, sale and use of non-DOT specification cylinders conforming to the UN-marked cylinder for use in transporting Division 2.3. (modes 1, 2, 3)
13081–N	RSPA–02–12998	Industrial Equipment & Engineering, Inc., Westlake, LA.	49 CFR 172.102, 173.243(c), 173.32(c).	To authorize the transportation in commerce of Class 8 hazardous materials in certain non-DOT specification portable tanks. (mode 1)
13082–N	RSPA–02–12997	M&M Oil, Inc., Johns Island, SC.	49 CFR 178.337–13(d)	To authorize the transportation in commerce of non-DOT specification cargo tank for use in Division 2.1 hazardous materials. (mode 1)
13083–N	RSPA–02–12994	Rockwood Pigments NA, Inc., St. Louis, MO.	49 CFR 172, 101 (SP IB6 or IP2).	To authorize the transportation in commerce of self-heating, solid, organic, n.o.s. in flexible intermediate bulk containers not to exceed 2,500 lbs. (modes 1, 2, 3)
13084–N	RSPA–02–12995	Schering-Plough Veterinary Operations, Inc., Baton Rouge, LA.	49 CFR 173.150(f)	To authorize the transportation in commerce of flammable liquids, n.o.s. in 75-gallon stainless steel tanks between two facilities with minimal regulation. (mode 1)
13085–N	RSPA–02–13041	Hercules Incorporated, Parlin, NJ.	49 CFR 174.67(i) & (j)	To authorize rail cars to remain connected while standing without the physical presence of an unloader. (mode 2)
13087–N	RSPA–02–13045	Superior Oil Company, Inc., Indianapolis, IN.	49 CFR 173.243(d)(1)(i) ..	To authorize the transportation in commerce of Class 8 material in bulk containers (DOT–57 portable tanks and UN31A/Y intermediate bulk containers). (mode 1)
13088–N	RSPA–02–13042	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.192, 173.40, 178.604.	To authorize the transportation in commerce of Division 2.3, 6.1 & Class 8 hazardous material in specially designed stainless steel containers overpacked in reusable 30-gallon steel containers. (modes 1, 3, 4)
13091–N	RSPA–02–13039	Entegris, Inc., Chaska, MN.	49 CFR 172.101 Col. 7 IB3.	To authorize the manufacture, mark, sale and use of ammonia solutions, Class 8, in intermediate bulk containers. (mode 1)
13092–N	RSPA–02–13040	Aztec Peroxides, L.L.C., Elyria, OH.	49 CFR 173.225(e)	To authorize the transportation in commerce of certain organic peroxides, Division 5.2 in DOT-Specification cargo tanks. (mode 1)

[FR Doc. 02–21781 Filed 8–26–02; 8:45 am]

BILLING CODE 4910–60–M

Federal Register

Tuesday,
August 27, 2002

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Nine Bexar County, Texas, Invertebrate Species; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI47

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Nine Bexar County, Texas, Invertebrate Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose designation of critical habitat for nine endangered karst-dwelling invertebrate species pursuant to the Endangered Species Act of 1973, as amended (Act). The proposed critical habitat consists of 25 units (a total of approximately 9,516 acres) in Bexar County, Texas, each encompassing one or more caves or other karst features known to contain one or more of the listed species. ''Karst'' is a type of terrain that is formed by the slow dissolution of calcium carbonate from limestone bedrock by mildly acidic groundwater. This process creates numerous cave openings, cracks, fissures, fractures, and sinkholes and the bedrock resembles a honeycomb (USFWS 1994). Critical habitat identifies areas that are essential to the conservation of a listed species and that may require special management considerations or protection.

If this proposal is made final, section 7 of the Act requires Federal agencies to ensure that actions they fund, authorize, or carry out do not destroy or adversely modify critical habitat to the extent that the action appreciably diminishes the value of the critical habitat for the conservation of the species. Section 4 of the Act requires us to consider economic and other impacts of specifying any particular area as critical habitat. We solicit data and comments from the public on all aspects of this proposal, including data on economic and other impacts of the designation.

DATES: We will accept comments until the close of business on November 25, 2002. Public hearing requests must be received by October 11, 2002.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by the date given above to the Acting Field Supervisor, Austin Ecological Services Field Office, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758.

You may also hand-deliver written comments to our U.S. Fish and Wildlife Service's Austin Ecological Services Field Office at the address given above.

You may view comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, by appointment, during normal business hours in the U.S. Fish and Wildlife Service's Austin Ecological Services Field Office at the above address.

FOR FURTHER INFORMATION CONTACT: Bill Seawell, Acting Field Supervisor, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, at the above address (telephone: 512/490–0057; facsimile: 512/490–0974).

SUPPLEMENTARY INFORMATION:

Background

The following nine Bexar County, Texas, invertebrate species were listed as endangered on December 26, 2000 (65 FR 81419): *Rhadine exilis* (ground beetle, no common name); *Rhadine infernalis* (ground beetle, no common name); *Batrisodes venyivi* (Helotes mold beetle); *Texella cokendolpheri* (Cokendolpher cave harvestman); *Cicurina baronia* (Robber Baron Cave meshweaver); *Cicurina madla* (Madla Cave meshweaver); *Cicurina venii* (Braken Bat Cave meshweaver); *Cicurina vespera* (Government Canyon Bat Cave meshweaver); and *Neoleptoneta microps* (Government Canyon Bat Cave spider). All of these species are karst dwelling species of local distribution in north and northwest Bexar County. They spend their entire lives underground.

During the course of climatic changes two million to ten thousand years ago, certain creatures retreated into the more stable cave environments, while their respective surface relatives either emigrated or became extinct (Barr 1968; Mitchell and Reddell 1971; Elliott and Reddell 1989). Cave species (troglobites) survived and colonized the caves and other subterranean voids. Through faulting and canyon downcutting, the karst terrain along the Balcones Fault Zone became increasingly dissected, creating ''islands'' of karst and barriers to dispersal. These ''islands'' isolated troglobitic populations from each other, probably resulting in speciation.

Individuals of the listed species are small, ranging in length from 1 millimeter (0.039 inch (in)) to 1 centimeter (0.39 in). They are eyeless or essentially eyeless and most lack pigment. Adaptations to cave life may include adaptations to the low quantities of food in caves, including low metabolism, long legs for efficient movement, and loss of eyes, possibly as an energy-saving trade-off (Howarth 1983). They may be able to survive from months to years existing on little or no food (Howarth 1983). Adult Cicurina spiders have survived in captivity without food for about 4 months (James Cokendolpher, pers. comm., 2002).

While the life span of listed Texas troglobitic invertebrates is unknown, they are believed to live more than a year based, in part, on the amount of time some juveniles have been kept in captivity without maturing (Veni and Associates 1999; James Reddell, Texas Memorial Museum, pers. comm., 2000). James Cokendolpher (pers. comm., 2002) maintained a juvenile troglobitic *Cicurina* spider from May 1999 through April 2002. Reproductive rates of troglobites are typically low (Poulson and White 1969; Howarth 1983). Based on surveys conducted by Culver (1986), Elliott (1994a), and Hopper (2000), population sizes of troglobitic invertebrates are typically low, with most species known from only a few specimens (Culver *et al.* 2000).

The primary habitat requirements of these species include: (1) Subterranean spaces in karst with stable temperatures, high humidities (near saturation) and suitable substrates (for example, spaces between and underneath rocks suitable for foraging and sheltering), and (2) a healthy surface community of native plants and animals that provide nutrient input and, in the case of native plants, act to buffer the karst ecosystem from adverse effects (for example, non-native species invasions, contaminants, and fluctuations in temperature and humidity).

Since sunlight is absent or only present in extremely low levels in caves, most karst ecosystems depend on nutrients derived from the surface either directly (organic material brought in by animals, washed in, or deposited through root masses) or indirectly through feces, eggs and carcasses of trogloxenes (species that regularly inhabit caves for refuge, but return to the surface to feed) and troglophiles (species that may complete their life cycle in the cave, but may also be found on the surface) (Barr 1968; Poulson and White 1969; Howarth 1983; Culver 1986). Primary sources of nutrients include leaf litter, cave crickets, small mammals and other vertebrates that defecate or die in the cave.

The continuing expansion of the San Antonio metropolitan area in karst terrain constitutes the primary threat to the species through destruction and/or deterioration of habitat by construction; filling of caves and karst features and loss of permeable cover; contamination

from septic effluent, sewer leaks, run-off, pesticides, and other sources; exotic species (especially nonnative fire ants); and vandalism.

Subsurface Environment

These karst invertebrates require stable temperatures and constant, high humidity (Barr 1968; Mitchell 1971a) because they have lost the adaptations needed to prevent desiccation in drier habitat (Howarth 1983) and/or the ability to detect or cope with more extreme temperatures (Mitchell 1971). Temperatures in caves are typically the average annual surface temperature with little variation (Howarth 1983; Dunlap 1995). Relative humidity is typically near 100% in caves that support troglobitic invertebrates (Elliott and Reddell 1989).

During temperature extremes, the listed species may retreat into small interstitial spaces (human-inaccessible) connected to the cave, where the physical environment provides the required humidity and temperature levels (Howarth 1983). These species may spend the majority of their time in such retreats, only leaving them to forage in the larger cave passages (Howarth 1987).

The northern portion of Bexar County is located on the Edwards Plateau, a broad, flat expanse of Cretaceous carbonate rock that ranges in elevation from 335.5 meters (m) (1,100 feet (ft)) to 579.5 m (1,900 ft) (Veni 1988; Soil Conservation Service 1962). This portion of the Plateau is dissected by numerous small streams and is drained by Cibolo Creek and Balcones Creek. To the southeast of the Plateau lies the Balcones Fault Zone, a 25-km-wide fault zone that extends from the northeast corner of the County to the western County line. The many streams and karst features of this zone recharge the Edwards Aquifer.

The principal cave-containing rock units of the Edwards Plateau are the upper Glen Rose Formation, Edwards Limestone, Austin Chalk, and Pecan Gap Chalk (Veni 1988). The Edwards Limestone accounts for one-third of the cavernous rock in Bexar County, and contains 60% of the caves, making it the most cavernous unit in the County. The Austin Chalk outcrop is second to the Edwards in total number of caves. In Bexar County, the outcrop of the upper member of the Glen Rose Formation accounts for approximately one-third of the cavernous rock, but only 12.5% of Bexar County caves (Veni 1988). In Bexar County, the Pecan Gap Chalk, while generally not cavernous, has a greater than expected density of caves and passages (Veni 1988).

Veni (1994) delineated six karst areas (hereafter referred to as karst fauna regions) within Bexar County: Stone Oak, UTSA (University of Texas at San Antonio), Helotes, Government Canyon, Culebra Anticline, and Alamo Heights. These karst fauna regions are bounded by geological or geographical features that may represent obstructions to the movement (on a geologic time scale) of troglobites which has resulted in the present-day distribution of endemic (restricted to a given region) karst invertebrates in the Bexar County area.

These areas have been delineated by Veni (1994) into five zones that reflect the likelihood of finding a karst feature that will provide habitat for the endangered invertebrates based on geology, distribution of known caves, distribution of cave fauna, and primary factors that determine the presence, size, shape, and extent of caves with respect to cave development. These five zones are defined as:

Zone 1: Areas known to contain one or more of the nine endangered karst invertebrates;

Zone 2: Areas having a high probability of suitable habitat for the invertebrates;

Zone 3: Areas that probably do not contain the invertebrates;

Zone 4: Areas that require further research but are generally equivalent to zone 3, although they may include sections that could be classified as zone 2 or zone 5; and

Zone 5: Areas that do not contain the invertebrates.

Endangered Karst Invertebrate Distribution

By 2000, about 400 caves were known from Bexar County (SWCA 2000). Of these 400 caves, 57 were known to contain one or more of the nine endangered invertebrates at the time the species were listed. Currently, we are aware of 69 caves in Bexar County that contain one or more of the listed species (Table 1).

Rhadine exilis (Ground beetle—No Common Name)

The ground beetle *Rhadine exilis* (Coleoptera: Carabidae) was first collected in 1959. The species was described by Barr and Lawrence (1960) as *Agonum exile* and later assigned to the genus *Rhadine* Barr (1974). The species is currently known from 44 caves: 3 in the Government Canyon karst fauna region; 5 in the Helotes karst fauna region; 9 in the UTSA karst fauna region; and 27 in the Stone Oak karst fauna region (Table 1).

Rhadine infernalis (Ground Beetle—No Common Name)

Rhadine infernalis (Coleoptera: Carabidae) was first collected in 1959. The species was initially described by Barr and Lawrence (1960) as *Agonum infernale,* but later assigned to the genus *Rhadine* (Barr 1974). Scientists have recognized three subspecies (*Rhadine infernalis ewersi, Rhadine infernalis infernalis, Rhadine infernalis* ssp.) (Barr 1974; Barr and Lawrence 1960; Reddell 1998).

TABLE 1.—CAVES KNOWN TO CONTAIN ONE OR MORE OF THE NINE LISTED BEXAR COUNTY, TEXAS KARST INVERTEBRATES

Species (# of caves)	Cave name	Karst fauna region
Rhadine exilis (44)	40 mm Cave B–52 Cave. Backhole. Black Cat Cave. Boneyard Pit. Bunny Hole. Cross the Creek Cave. Dos Viboras Cave. Eagle's Nest Cave. Hairy Tooth Cave. Headquarters Cave. Hilger Hole. Hold-Me-Back Cave. Hornet's Last Laugh Pit.	Stone Oak.

TABLE 1.—CAVES KNOWN TO CONTAIN ONE OR MORE OF THE NINE LISTED BEXAR COUNTY, TEXAS KARST INVERTEBRATES—Continued

Species (# of caves)	Cave name	Karst fauna region
	Isocow Cave.	
	Kick Start Cave.	
	MARS Pit.	
	MARS Shaft.	
	Pain in the Glass Cave.	
	Platypus Pit.	
	Poor Boy Baculum Cave.	
	Ragin' Cajun Cave.	
	Root Canal Cave.	
	Root Toupee Cave.	
	Springtail Crevice.	
	Strange Little Cave.	
	Up the Creek Cave.	
	Christmas Cave	Helotes.
	Helotes Blowhole.	
	Helotes Hilltop Cave.	
	Logan's Cave.	
	Unnamed cave ½ mile N. of Helotes.	
	Government Canyon Bat Cave	Government Canyon.
	San Antonio Ranch Pit.	
	Tight Cave.	
	Hills and Dales Pit	UTSA.
	John Wagner Ranch Cave No. 3.	
	Kamikazi Cricket Cave.	
	La Cantera Cave No. 1.	
	La Cantera Cave No. 2.	
	Mastodon Pit.	
	Robber's Cave.	
	Three Fingers Cave.	
	Young Cave No. 1.	
R. infernalis (6) (subspecies not indicated)	Canyon Ranch Pit	Government Canyon.
	Fat Man's Nightmare Cave.	
	Scenic Overlook Cave.	
	Pig Cave.	
	San Antonio Ranch Pit.	
	Obvious Little Cave	Culebra Anticline.
R. infernalis ewersi (3)	Flying Buzzworm Cave	Stone Oak.
	Headquarters Cave.	
	Low Priority Cave.	
R. infernalis new subspecies (6)	Caracol Creek Coon Cave	Culebra Anticline.
	Game Pasture Cave No. 1.	
	Isopit.	
	King Toad Cave.	
	Stevens Ranch Trash Hole Cave.	
	Wurzbach Bat Cave.	
R. infernalis infernalis (16)	Bone Pile Cave	Government Canyon.
	Government Canyon Bat Cave.	
	Lithic Ridge Cave.	
	Surprise Sink.	
	Christmas Cave	Helotes.
	Helotes Blowhole.	
	Logan's Cave.	
	Madla's Cave.	
	Madla's Drop Cave.	
	Genesis Cave	Stone Oak.
	John Wagner Ranch Cave No. 3	UTSA.
	Kamikazi Cricket Cave.	
	Mattke Cave.	
	Robber's Cave.	
	Scorpion Cave.	
	Three Fingers Cave.	
Batrisodes venyivi (6)	Scenic Overlook Cave	Government Canyon.
	San Antonio Ranch Pit.	
	Christmas Cave	Helotes.
	Unnamed cave ½ mile N of Helotes.	
	Helotes Hilltop Cave.	
	Unnamed cave 5 miles NE of Helotes	UTSA.
Texella cokendolpheri (1)	Robber Baron Cave	Alamo Heights.
C. baronia (1)	Robber Baron Cave	Alamo Heights.
Cicurina madla (8)	Christmas Cave	Helotes.
	Madla's Cave.	

TABLE 1.—CAVES KNOWN TO CONTAIN ONE OR MORE OF THE NINE LISTED BEXAR COUNTY, TEXAS KARST INVERTEBRATES—Continued

Species (# of caves)	Cave name	Karst fauna region
	Madla's Drop Cave.	
	Helotes Blowhole.	
	Headquarters Cave	Stone Oak.
	Hills and Dales Pit	UTSA.
	Robber's Cave.	
	Lost Pothole	Government Canyon.
C. venii (1)	Braken Bat Cave	Culebra Anticline.
C. vespera (2)	Government Canyon Bat Cave	Government Canyon.
	Unnamed cave 5 miles NE of Helotes	UTSA.
Neoleptoneta microps (2)	Government Canyon Bat Cave	Government Canyon.
	Surprise Sink.	

Rhadine infernalis ewersi is known from three caves in the Stone Oak karst fauna region. *Rhadine infernalis infernalis* is known from 16 caves: one in the Stone Oak karst fauna region, four in the Government Canyon karst fauna region, five in the Helotes karst fauna region, and six in the UTSA karst fauna region. The unnamed subspecies is known from six caves in the Culebra Anticline karst fauna region. We are also aware of six additional caves that contain *Rhadine infernalis* (not identified to subspecies): one in the Culebra Anticline karst fauna region and five in the Government Canyon karst fauna region.

Helotes Mold Beetle

The Helotes mold beetle, *Batrisodes venyivi* (Coleoptera: Pselaphidae), was first collected in 1984 and described by Chandler (1992). The species is currently known from six caves: three in the Helotes karst fauna region, two in the Government Canyon karst fauna region, and one in the UTSA karst fauna region (Table 1). The location of one of the caves located in the Helotes karst fauna region referred to as ''unnamed cave ½ mile north of Helotes'' is unknown. It is an original record from Barr's (1974) description of *Rhadine exilis*. Due to the number of caves in the general area, the location of this cave cannot be positively identified (George Veni, George Veni & Associates, pers. comm. 2002). The location of the cave in the UTSA karst fauna region referred to as a cave ''5 miles NE of Helotes'' is also unknown, but based on its descriptive name, is assumed to be within the UTSA karst fauna region. It is possible that this cave may not be a separate location, but may be an existing cave listed by the collector under the alternative name ''5 miles NE of Helotes''.

The common names for the following six arachnid species have been changed as a result of a meeting of the Committee on Common Names of Arachnids of the American Arachnological Society in 2000. Accordingly, the common names of the species currently in the list of Endangered and Threatened Wildlife (50 CFR 17.11) as: Robber Baron Cave harvestman, Robber Baron cave spider, Madla's cave spider, vesper cave spider, Government Canyon cave spider, and one with no common name (Cicurina venii), have been changed to: Cokendolpher cave harvestman, Robber Baron Cave meshweaver, Madla Cave meshweaver, Government Canyon Bat Cave meshweaver, Government Canyon Bat Cave spider, and Braken Bat Cave meshweaver, respectively.

Cokendolpher Cave Harvestman

The Cokendolpher cave harvestman, *Texella cokendolpheri* (Opilionida: Phalangodidae), was collected in 1982 and described by Ubick and Briggs (1992). Currently, this species, along with the Robber Baron Cave meshweaver, is only known from Robber Baron Cave (Table 1).

Robber Baron Cave Meshweaver

The Robber Baron Cave meshweaver, Cicurina baronia (Araneae: Dictynidae), was first collected in Robber Baron Cave in the Alamo Heights karst fauna region February 28, 1969, by R. Bartholomew (Reddell 1993) and described by Gertsch (1992). The Robber Baron Cave meshweaver (a spider) is only known from Robber Baron Cave in the Alamo Heights karst fauna region (Table 1).

Madla Cave Meshweaver

The Madla Cave meshweaver, *Cicurina madla* (Araneae: Dictynidae), was first collected in October 4, 1963, by J. Reddell and D. McKenzie (Reddell 1993) and described by Gertsch (1992). The Madla Cave meshweaver is currently known from eight caves: one in the Stone Oak karst fauna region; one in the Government Canyon karst fauna region; two in the UTSA karst fauna region; and four in the Helotes karst fauna region (Table 1).

The Service is aware of eleven additional caves from which immature, eyeless troglobitic *Cicurina* spiders have been collected (SWCA 2001). Eight of these are in caves that have other listed species and are either included in proposed critical habitat areas or areas proposed for exclusion due to the provision of special management. The remaining three are in caves where authorization for take of *C. madla* was granted to La Cantera under a section 10(a)(1)(B) permit.

Braken Bat Cave Meshweaver

The Braken Bat Cave meshweaver, *Cicurina venii* (Araneae: Dictynidae), was first collected on November 22, 1980, by G. Veni and described by Gertsch (1992). Braken Bat Cave in the Culebra Anticline karst fauna region remains the only location known to contain this species (Table 1).

Government Canyon Bat Cave Meshweaver

The Government Canyon Bat Cave meshweaver, *Cicurina vespera* (Araneae: Dictynidae), was first collected on August 11, 1965, by J. Reddell and J. Fish (Reddell 1993), and described by Gertsch (1992). The species is currently known from Government Canyon Bat Cave in the Government Canyon karst fauna region and an unnamed cave referred to as ''5 miles northeast of Helotes'' (Table 1). However, the specimen collected from the latter cave has been tentatively identified as a new species (Cokendolpher, in press).

Government Canyon Bat Cave Spider

The Government Canyon Bat Cave spider, *Neoleptoneta microps* (Araneae: Leptonetidae), was first collected on August 11, 1965, by J. Reddell and J. Fish (Reddell 1993). The species was originally described by Gertsch (1974) as *Leptoneta microps* and later

reassigned to *Neoleptoneta* following Brignoli (1977) and Platnick (1986). The species is known from two caves in the Government Canyon karst fauna region (Table 1).

Animal Community

Cave Crickets

Cave crickets are a critical source of nutrient input for karst ecosystems (Barr 1968; Reddell 1993). Cave crickets in the genus *Ceuthophilus* occur in most caves in Texas (Reddell 1966). Being sensitive to temperature extremes and drying, cave crickets forage on the surface at night and roost in the cave during the day. Cave crickets lay their eggs in the cave, providing food for a variety of other species (Mitchell 1971b). Some cave species also feed on cave cricket feces (Barr 1968; Poulson *et al.* 1995) as well as on adults and nymphs directly (Cokendolpher, in press; Elliott 1994a). Cave crickets are scavengers or detritivores, feeding on dead insects, carrion and some fruits, but not on foliage (Elliott 1994a).

Based on analysis of cave cricket data collected at Lakeline Cave in northwest Travis County, Texas by William Elliott and Peter Sprouse from 1993 to 1999, cave cricket numbers in Lakeline Cave underwent a major decline following the construction of Lakeline Mall. Under a section 10(a)(1)(B) permit, 0.9 ha (2.3 ac) of land was left undeveloped around the cave, and effects of the development were monitored. Protected areas were established around Temples of Thor, Red Crevice Cave, and Testudo Tube. During the monitoring period, the undeveloped area around Lakeline Cave comprised about 3.2 ha (8 ac) of woodland and grassland surrounded by roads and parking lots. The protected areas around Temples of Thor Cave and Testudo Tube Cave are 42.5 and 10.5 ha, respectively (105 and 26 ac), and one surrounded by additional undeveloped land. We analyzed cave cricket numbers from data collected from 1993 to 1999 at Lakeline Cave, Temples of Thor, and Testudo Tube. The analysis indicated that cave cricket numbers in Lakeline Cave declined while numbers at the other two caves remained stable. Cave cricket numbers at Lakeline Cave declined and were significantly correlated with time ($r^2 = 0.3872$) whereas cricket numbers from Temples of Thor and Testudo Tube, which are in larger preserves (105 and 26 acres respectively, although the surrounding undeveloped area made the effective area larger) remained stable ($r^2 = 0.0007$ and 0.0018 respectively). These results are consistent with reports of declines and extinctions of several invertebrates and small mammals (due to lower survivorship, higher emigration, and/or lower immigration) from habitat patches ranging in size from 2 to 7 ha (5–17 ac) (Mader 1984; Tscharntke 1992; Keith *et al.* 1993; Lindenmayer and Possingham 1995; Hill *et al.* 1996).

Elliott (1994a) stated that cave crickets generally forage within 50 m (164 ft) of caves and other karst features, but have been found up to 60 m (197 ft) away. He also stated that cave crickets may use small, unnoticeable passages from the cave to the surface in addition to the main cave entrance.

Cave cricket populations may have a metapopulation (an assemblage of local populations, called subpopulations, that interact via the dispersal of individuals from one subpopulation to others) or a source-sink population structure and, therefore, it may be important to protect multiple karst features that support cave crickets in a karst ecosystem. ''Source'' populations are those that generate a flow of migrants to other habitat patches. Population ''sinks'' are patches where losses of individuals are not replaced by reproduction alone, but rely on continued immigration from source populations (Ehrlich and Ehrlich 1996). Metapopulation dynamics require movement among patches, and persistence requires interacting patches that undergo local extinctions and establishment of new subpopulations in areas previously devoid of individuals (Hanski 1999).

Most information on the population structure of cave cricket species is from studies in the eastern United States and in Europe. Allegrucci *et al.* (1997) found that a cave cricket (*Dolichopoda schiavazzii*) endemic to Tuscany, Italy, had a metapopulation structure. They found that populations of cave crickets from two caves 20 km (12 mi) apart but connected by moist woodlands had 54 migrants per generation and probably exchanged individuals.

Cockley *et al.* (1977) studied a cave cricket (*Ceuthophilus gracilipes*) in the eastern United States. This species is limited to humid, dark, and stable habitats and is found both in caves and in the forest under logs and loose bark. They found limited genetic differentiation of the cave crickets in caves over a 1000 km2 (386 mile2) area and suggested that ''the forest populations may serve as genetic bridges'' between caves.

Caccone and Sbordoni (1987) studied nine species of North American cave crickets from sites in North Carolina, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Kentucky, and Alabama. Seven of the species were obligate cave-dwelling species that emerged at night to feed. Through genetic analyses of the cave-dwelling species, they found that species or groups of populations inhabiting areas where the limestone is continuous and highly fissured are genetically less differentiated than are populations occurring in regions where the limestone distribution is more fragmented. This suggests that cave-dwelling species occurring within continuous limestone blocks migrate through the subsurface environment.

Helf *et al.* (1995) suggested that populations of an eastern species of cave cricket (*Hadenoecus subterraneus*) may be at risk because they do not recover quickly after events such as drought, floods, and temperature extremes that preclude or diminish foraging opportunities. These cave cricket populations may have source-sink population dynamics, with some karst features acting as sources and the majority of karst features acting as sinks, but Helf *et al.* (1995) recommend that even sink populations should be protected because their emigrants can ''rescue'' source populations that experience local decimation. These studies suggest that it is important to protect geologically connected caves and maintain vegetated corridors between caves.

Other Surface Animals

Many central Texas caves with endangered invertebrate species are frequented by mammals and several species of reptiles and amphibians (Reddell 1967). Although there are no studies establishing the role of mammals in central Texas cave ecology, the presence of a large amount of mammal related materials (scat, nesting materials, and dead bodies) indicates they are probably important. An important source of nutrients for the cave species may be the fungus, microbes, and/or other troglophiles and troglobites that grow or feed on feces (Elliott 1994b; Gounot 1994).

For predatory troglobites, invertebrates that accidently occur in the cave, may be an important nutrient source (Hopper 2000). Documented accidental species include snails, earthworms, terrestrial isopods (commonly known as pillbugs or potato bugs), scorpions, spiders, mites, collembola (primitive wingless insects that are commonly known as springtails), thysanura (commonly known as bristletails and silverfish), harvestmen (commonly known as daddy-long-legs), ants, leafhoppers, thrips, beetles, weevils, moths, and flies (Reddell 1965; Reddell 1966; Reddell 1999).

Vegetation Community

The vegetative community provides nutrient input to the karst ecosystem through plant debris washed in and possibly through roots; supports the animal communities that contribute nutrients to the karst ecosystem (such as cave crickets, small mammals, and other vertebrates); buffers the subsurface environment against drastic changes in the temperature and moisture regime; helps filter pollutants (Biological Advisory Team 1990; Veni & Associates 1988); and helps control certain exotics (such as fire ants) (Porter *et al.* 1988) that may compete with or prey upon the listed species and other karst fauna.

Tree roots have been found to provide a major energy source in shallow lava tubes and limestone caves in Hawaii (Howarth 1981, cited in Howarth 1983). Jackson *et al.* (1999) investigated rooting depth in 21 caves on the Edwards Plateau to assess the below ground vegetational community structure and the functional importance of roots. They observed roots penetrating up to 25 m (82 ft) into the interior of twenty of the caves, with roots of six tree species common to the plateau penetrating to below 5 m (16.4 ft). They speculated that the caves may provide water and nutrients for the trees.

Along with providing nutrients to the karst ecosystem, directly and indirectly, a healthy vegetative community may also help control the spread of exotic species. The imported red fire ant (*Solenopsis invicta*) is an aggressive predator, which has had a devastating and long-lasting impact on native ant populations and other arthropod communities (Vinson and Sorenson 1986; Porter and Savignano 1990) and is a threat to the karst invertebrates (Elliott 1994b; USFWS 1994). Fire ants have been observed building nests both within and near cave entrances as well as foraging in caves, especially during the summer. Shallow caves inhabited by listed karst invertebrates makes them especially vulnerable to invasion by fire ants and other exotic species. Fire ants have been observed preying on several cave species (Elliott 1994b). Karst fauna that are most vulnerable to fire ant predation are the slower-moving adults, nymphs, and eggs (James Reddell, pers. comm., 1994). The presence of fire ants in and around karst areas could have a drastic detrimental effect on the karst ecosystem through loss of both surface and subsurface species that are critical links in the food chain.

The invasion of fire ants is known to be aided by ''any disturbance that clears a site of heavy vegetation and disrupts the native ant community'' (Porter *et al.* 1988). Porter *et al.* (1991) state that control of fire ants in areas greater than 5 ha (12 ac) may be more effective than in smaller areas since multiple queen fire ant colonies reproduce primarily by ''budding,'' where queens and workers branch off from the main colony and form new sister colonies. Maintaining large, undisturbed areas of native vegetation may also help sustain the native ant communities (Porter *et al.* 1988; 1991).

Woodland-Grassland Community

The woodland-grassland mosaic community typical of the Edwards Plateau is a patchy environment composed of many different plant species. To replicate natural processes, patchy environments require larger minimum areas for conservation than do more homogeneous environments (Lovejoy and Oren 1981). To maintain a viable vegetative community, including woodland and grassland species, a buffer area is needed to shield the core habitat from impacts associated with fragmentation, isolation, edge effects, and other factors.

Enough individuals of each plant species must be present for successful reproduction over the long-term. Viable population size is influenced by needs for satisfactory germination (Menges 1995), genetic variation (Bazzaz 1983; Menges 1995; Young 1995) and pollinator effectiveness (Groom 1998; Jennersten 1995; Bigger 1999). Pavlik (1996) stated that long-lived, woody, self-fertilizing plants with high fecundity would be expected to have minimum viable population sizes in the range of 50–250 reproductive individuals. Fifty reproductive individuals is a reasonable minimum figure for one of the dominant species of the community (juniper) based on reproductive profiles for these species (Van Auken *et al.* 1979; Van Auken *et al.* 1980; Van Auken *et al.* 1981). This figure would likely be an underestimate for other woody species present in central Texas woodlands as subdominant and understory species, because they are more sensitive to environmental changes and do not meet several of the life history criteria needed for the lowest minimal viable population size. Although these species may require population sizes at the higher end of Pavlik's (1996) range (that is, nearer 250 individuals) to be viable, we do not have the data to support that contention. Therefore, we have considered a minimum viable population size for species composing a typical oak/juniper woodland found in central Texas, including both dominant, subdominant, and understory species, to be 80 individuals per species (Dr. Kathryn Kennedy, Center for Plant Conservation, pers. comm., 2002). This is a judgement based on the perception that this habitat type as a whole is fairly mature and the species are relatively long-lived and reproductively successful.

Based on analysis of recorded densities for dominant and important woody species by Van Auken *et al.* (1979; 1980; 1981), we extrapolated the area needed to support 80 reproductive individuals for the dominant, subdominant, and other important woody species in the southern Edwards Plateau. We used observed density per unit area, corrected for non-reproductive individuals, then calculated the area needed to support 80 mature reproductive individuals per species. We found about a third of the ecologically important woody species typical of the Edwards Plateau needed core areas of approximately 32 ha (80 ac) to sustain self-reproducing populations of at least 80 mature individuals.

Maintaining viable grasslands is challenging because many grass species use wind to disperse their seeds and these distances may be small. The process of expansion through rhizomes (underground stems) is slow and clonal, which reduces genetic variability. Primary recruitment of new individuals in grasslands is from seedling establishment. Seed dispersal, soil texture, and suitable soil moisture profiles at critical times are important factors for maintaining viability (Coffin *et al.* 1993).

While grassland may be important to maintaining the karst community, we lack adequate information to factor this information into surface habitat patch size requirements. We believe maintaining the 32 ha core areas will provide the native grasslands needed to support the diversity and nutrients needed for a viable karst ecosystem.

The presence of water in the subsurface environment is important for maintaining the humid conditions, stable temperatures, and natural airflow in the cave. Since soil depth is shallow over the limestone plateau, water collects as sheet flow on the surface following rain and enters the subsurface environment through cave openings, fractures, and solutionally-enlarged bedding planes. This direct, rapid transport of water through the karst allows for little or no purification (USFWS 1994), allowing contaminants and sediments to enter directly into the subsurface environment. As a result, karst features and karst dependent invertebrates are vulnerable to the

adverse effects of pollution from contaminated ground and surface water. Maintaining stable environmental conditions and protecting groundwater quality and quantity, requires managing surface habitat to avoid threats to the surface and subsurface drainage area of known occupied caves. This includes not only the humanly-accessible cave entrances but also sinks, depressions, fractures and fissures which may serve as subsurface conduits into the cave and to the interstitial spaces used by the invertebrates.

Buffer Areas

Plant and animal communities are affected by ''edge effects'' or changes to the floral and faunal communities where different habitats meet. The length and width of the edge, as well as the contrast between the vegetational communities, all contribute to edge effects (Smith 1990; Harris 1984). Edge effects include: increases in solar radiation, changes in soil moisture due to elevated levels of evapotranspiration, wind buffeting (Ranny *et al.* 1981), changes in nutrient cycling and the hydrological cycle (Saunders *et al.* 1990), and changes in the rate of leaf litter decomposition (Didham 1998). Edge effects alter the plant communities, which in turn impact the associated animal species. The changes caused by edge effects can occur rapidly. For example, vegetation 2 m (6.6 ft) from a newly created edge can be altered within days (Lovejoy *et al.* 1986).

When plant species composition is altered due to edge effects, changes also occur in the surface animal communities (Lovejoy and Oren 1981; Harris 1984; Mader 1984; Thompson 1985; Lovejoy *et al.* 1986; Yahner 1988; Fajer *et al.* 1989; Kindvall 1992; Tscharntke 1992; Keith *et al.* 1993; Hanski 1995; Lindenmayer and Possingham 1995; Bowers *et al.* 1996; Hill *et al.* 1996; Kozlov 1996; Kuussaari *et al.* 1996; Turner 1996; Mankin and Warner 1997; Burke and Nol 1998; Didham 1998; Suarez *et al.* 1998; Crist and Ahern 1999; Kindvall 1999). These changes in plant and animal species composition that result from edge effects may unnaturally change the nutrient cycling processes required to support cave and karst ecosystem dynamics. To minimize edge effects, the core area must have a sufficient buffer area.

There are two types of edges, hard and soft. ''Hard'' edges, also called inherent edges, are drastic differences in habitat types, such as grassland to road, forest to clearcut, and are generally long-term or permanent changes. Hard edges can be the result of a sudden natural disruption such as a storm event (Smith 1990), or man-made disturbances such as clearcuts or urbanization. ''Soft'' edges, also called induced edges, are subtle differences in habitat type. Soft edges can also be abrupt such as where a pine forest abuts a pine plantation, but soft edges occur more often as successional changes or gradual transitions in the vegetative or faunal communities (Smith 1990).

Hard edges can act as a barrier to distribution and dispersal patterns of birds and mammals (Yahner 1988; Hansson 1998). Invertebrate species are affected by edges. Mader *et al.* (1990) found that carabid beetles and lycosid spiders avoided crossing unpaved roads that were even smaller than 3 m (9 ft) wide. Saunders *et al.* (1990) suggested that as little as 100 m (328 ft) of agricultural fields may be a complete barrier to dispersal for small organisms such as invertebrates and some species of birds. In general, for animal communities, species need buffers of 50 to 100 m (164–328 ft) or greater to ameliorate edge effects (Lovejoy *et al.* 1986; Wilcove *et al.* 1986; Laurance 1991; Laurance and Yensen 1991; Kapos *et al.* 1993; Andren 1995; Reed *et al.* 1996; Burke and Nol 1998; Didham 1998; Suarez *et al.* 1998).

Non-native fire ants are known to be harmful to many species of invertebrates and vertebrates. In coastal southern California, Suarez *et al.* (1998) found that densities of the exotic Argentine ant (*Linepithema humile*), which has a life history similar to the fire ant, are greatest near disturbed areas. Native ant communities tended to be more abundant in native vegetation and less abundant in disturbed areas. Based on the association of the Argentine ant and distance to the nearest edge in urban areas, core areas may only be effective at maintaining natural populations of native ants when there is a buffer area of at least 200 m (656 ft) (Suarez *et al.* 1998).

Both hard and soft edges may allow invasive plant species to gain a foothold where the native vegetation had previously prevented their spread (Saunders *et al.* 1990; Kotanen *et al.* 1998; Suarez *et al.* 1998; Meiners and Steward 1999). A general rule for protecting forested areas from edge effects that are in proximity to clear-cut areas is to use the ''three tree height'' rule (Harris 1984) for estimating the width of the buffer area needed. We used this general rule to estimate the width of buffer areas needed to protect the habitat core areas. The average height of native mature trees in the Edwards woodland association in Texas ranges from 3 to 9 m (10 to 30 ft) (Van Auken *et al.* 1979). Applying the general rule, and using the average value of 6.6 m for tree height, we estimated a buffer width of at least 20 m (66 ft) is needed around a core habitat area to protect the vegetative community from edge effects.

Patch Configuration

Shape

The more edge a habitat fragment or patch has, the larger the patch or fragment size should be to protect the core area from deleterious edge effects (Ranny *et al.* 1981; Lovejoy *et al.* 1986; Yahner 1988; Laurance 1991; Laurance and Yensen 1991; Kelly and Rotenberry 1993; Holmes *et al.* 1994; Reed *et al.* 1996; Turner 1996; Suarez *et al.* 1998). Designing a habitat area that minimizes edge effects means keeping the edge to area ratio low by increasing the patch size (Holmes *et al.* 1994) and/or using optimal shapes. Circular habitat areas, or ones that are contiguous with other protected habitat areas, are preferable (Diamond 1975; Wilcove *et al.* 1986; Kelly and Rotenberry 1993; Wigley and Roberts 1997; Kindvall 1999). A habitat area with a circular configuration will have less edge than a habitat area of equal size with any other configuration.

Fragmentation

Haskell (2000) examined the effect of habitat fragmentation by unpaved roads through otherwise contiguous forest in the southern Appalachian Mountains and found reduced soil macroinvertebrate species abundance up to 100 m (328 ft) from the road and declines in faunal richness up to 15 m (50 ft) from the road. Haskell (2000) pointed out that ''these changes may have additional consequences for the functioning of the forest ecosystem and the biological diversity found within this system. The macroinvertebrate fauna of the leaf litter plays a pivotal role in the ability of the soil to process energy and nutrients.'' Haskell further points out that these changes may in turn affect the distribution and abundance of other organisms, particularly plants. Changes in abundance in litter dwelling macroinvertebrates may also affect ground-foraging vertebrate fauna (Haskell 2000).

Invertebrate biomass per unit area has been found to be less in small fragmented habitats, which may result in reduced food available for cave crickets. Burke and Nol (1998), working in southern Ontario, Canada, found a greater biomass of leaf litter invertebrates in large (≥20 ha (49 ac)) versus smaller forested areas. Zanette *et*

al. (2000) in New South Wales, Australia, reported the biomass of ground dwelling invertebrates was 1.6 times greater in large (>400 ha (988 ac)) versus smaller (~55 ha (136 ac)) forested areas.

The ability of individuals to move between preferred habitat patches is essential for colonization and population viability (Eber and Brandl 1996; Fahrig and Merriam 1994; Hill *et al.* 1996; Kattan *et al.* 1994; Kindvall 1999; Kozlov 1996; Kuussaari *et al.* 1996; Turner 1996). Patch shapes that allow connection with the most number of neighboring patches increase the likelihood that a neighboring patch will be occupied (Fahrig and Merriam 1994; Kindvall 1999; Kuussaari *et al.* 1996; Tiebout and Anderson 1997). If movement among populations is restricted and a population is isolated, the habitat patch size must be large enough to ensure that the population can survive (Fahrig and Merriam 1994).

It is likely that many cave systems are connected throughout the subsurface geologic formation even though this may not be readily apparent from surface observations. The extent to which listed species use interstitial spaces and passages is not fully known. Troglobitic species may retreat into these small interstitial spaces where the physical environment is more stable (Howarth 1983) and may spend the majority of their time in such retreats, only leaving them during temporary forays into the larger cave passages to forage (Howarth 1987).

Summary

The recovery of the endangered karst invertebrates depends on a self-sustaining karst ecosystem; surface and subsurface drainage basins to maintain adequate levels of moisture; and a viable surface animal and plant community for nutrient input and protection of the subsurface from adverse impacts. The area needed to conserve such an ecosystem includes a core area buffered from the impacts associated with fragmentation, isolation, edge effects, and other factors that may threaten ecosystem stability. Depending on the size and shape of these core habitat areas or patches, to remain viable, they may also require connections to other habitat patches.

In summary, around known caves we believe an area approximately 36 ha (90 ac) that includes a core habitat area of 32 ha (80 ac) surrounded by a buffer 20 m (66 ft) wide, comprising about 4 ha (10 ac), is needed to protect and maintain the area flora, fauna, and nutrient base. The amount of area in the buffer will be larger if the core habitat area is irregularly shaped. Where possible, these areas should be continuous to minimize fragmentation.

Previous Federal Action

On January 16, 1992, we received a petition submitted by representatives of the Helotes Creek Association, the Balcones Canyonlands Conservation Coalition, the Texas Speleological Association, the Alamo Group of the Sierra Club, and the Texas Cave Management Association to add the nine invertebrates to the List of Threatened and Endangered Wildlife. On December 1, 1993, we announced in the **Federal Register** (58 FR 63328) a 90-day finding that the petition presented substantial information that listing may be warranted.

On November 15, 1994, we added eight of the nine invertebrates to the Animal Notice of Review as category 2 candidate species in the **Federal Register** (59 FR 58982). We intended to include *Rhadine exilis* in the notice of review, but an oversight occurred and it did not appear in the published notice. Category 2 candidates, a classification since discontinued, were those taxa for which we had data indicating that listing was possibly appropriate, but for which we lacked substantial data on biological vulnerability and threats to support proposed listing rules.

On December 30, 1998, we published a proposed rule to list the nine Bexar County karst invertebrates as endangered (63 FR 71855). Incorporating comments and new information received during the public comment period on the proposed rule, we published a final rule to list the nine Bexar County karst invertebrate species as endangered in the **Federal Register** on December 26, 2000 (65 FR 81419).

In the proposed rule, we indicated that designation of critical habitat was not prudent for the nine invertebrates because the publication of precise species locations and maps and descriptions of critical habitat in the **Federal Register** would make the nine invertebrates more vulnerable to incidents of vandalism through increased recreational visits to their cave habitat and through purposeful destruction of the caves. We also indicated that designation of critical habitat was not prudent because it would not provide any additional benefits beyond that provided through listing the species as endangered.

Based on recent court decisions, (for example, *Natural Resources Defense Council* v. *U.S. Department of the Interior* 113 F. 3d 1121 (9th Cir. 1997); *Conservation Council for Hawaii* v. *Babbitt,* 2 F. Supp. 2d 1280 (D. Hawaii 1998)) and the standards applied in those judicial opinions, we reexamined the question of whether critical habitat for the nine invertebrates would be prudent. After reexamining the available evidence for the nine invertebrates, we did not find specific evidence of collection or trade of these or any similarly situated species and found that ''by designating critical habitat in a manner that does not identify specific cave locations, the threat of vandalism by recreational visits to the cave or purposeful destruction by unknown parties should not be increased'' (65 FR 81419).

In the final rule to list the species as endangered (65 FR 81419), we determined that critical habitat designation was prudent as we did not find specific evidence of increased vandalism. Also, we found that there may also be some educational or informational benefit to designating critical habitat. Therefore, we found that the benefits of designating critical habitat for the nine karst invertebrate species outweighed the benefits of not designating critical habitat.

The Final Listing Priority Guidance for FY 2000 (64 FR 57114) stated that we would undertake critical habitat determinations and designations during FY 2000 as allowed by our funding allocation for that year. As explained in detail in the Listing Priority Guidance, our listing budget was insufficient to allow us to immediately complete all of the listing actions required by the Act during FY 2000. We stated that we would propose designation of critical habitat in the future at such time when our available resources and priorities allowed.

On November 1, 2000, the Center for Biological Diversity (Center) filed a complaint against the Service alleging that the Service exceeded its one-year deadline to publish a final rule listing and designating critical habitat for the nine Bexar County cave invertebrates. Subsequent to the Service publishing the final rule to list these nine species as endangered on December 26, 2000, the Center agreed to dismiss its claim regarding the listing of the species. The Center and the Service reached a settlement on the designation of critical habitat where the Service agreed to submit a proposed critical habitat determination for publication in the **Federal Register** on or by June 30, 2002, and a final determination by January 25, 2003. Sixty-day extensions on the deadlines to submit both the proposed and final critical habitat determinations to the **Federal Register** were approved by the court and the new deadlines are

August 31, 2002, and March 25, 2003, respectively.

On February 28, 2002, we mailed letters to the Texas Parks and Wildlife Department and the Texas Natural Resource Conservation Commission informing them that we were in the process of designating critical habitat for the nine Bexar County karst invertebrates. We requested any additional available information on the listed species, including: Biology; life history; habitat requirements; distribution, including geologic controls to species distribution; current threats; and management activities, current or in the foreseeable future. The letters contained a current list of Bexar County caves known to contain listed species, a map showing the general distribution of these species within each karst fauna region and a list of the references pertaining to these species and their distribution as we know it. We requested their review and comments on our current information and asked their assistance in providing any additional available information.

We also mailed approximately 300 pre-proposal letters to interested parties and cave biologists on March 20, 2002, informing them that we were in the process of designating critical habitat for the nine listed karst invertebrates. The letters contained a copy of the final rule to list these Bexar County invertebrate species as endangered, a map showing the general distribution of these species, a list of literature about these species and their habitats, and a brief summary with questions and answers on critical habitat. We requested comments on (1) the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of excluding areas will outweigh the benefits of including areas; (2) land use practices and current or planned activities in the subject areas and their possible impacts on possible critical habitat; (3) any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families; and (4) economic and other benefits associated with designating critical habitat for the Bexar County karst invertebrates.

Critical Habitat

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and, (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation,'' as defined by the Act, means the use of all methods and procedures that are necessary to bring an endangered 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 conferences on Federal actions that are likely to result in the destruction or adverse modification of proposed critical habitat. Destruction or adverse modification is 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. 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 provides non-regulatory benefits to the species by informing the public and private sectors of areas that are important for species recovery and where conservation actions would be most effective. Designation of critical habitat can help focus conservation activities for a listed species by identifying areas that contain the physical and biological features that are essential for the conservation of that species, and can alert the public and land-managing agencies to the importance of those areas.

To be included in a critical habitat designation, the habitat must be ''essential to the conservation of the species.'' Critical habitat designations identify, to the extent known and using the best scientific and commercial data available, habitat areas that provide essential life cycle needs of the species (such as areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)). Section 3(5)(C) of the Act states that not all areas that can be occupied by a species should be designated as critical habitat unless the Secretary determines that all such areas are essential to the conservation of the species. Our regulations (50 CFR 424.12(e)) also 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.'''

Section 4 (b)(2) of the Act requires that we take into consideration the economic impact, and any other relevant impact, of specifying any particular areas as critical habitat. We may exclude areas from critical habitat designation when the benefits of exclusion outweigh the benefits of including the areas within critical habitat, provided the exclusion will not result in extinction of the species.

Our Policy on Information Standards Under the Endangered Species Act, published on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that decisions made by the Service represent the best scientific and commercial data available. It requires that our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, 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 should be the listing rule for the species. Additional information may be obtained from a recovery plan, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished reports.

Section 4 of the Act requires that we designate critical habitat based on what we know at the time of designation. Since much of the cave-forming rock is located on private property in areas that have been inadequately surveyed, additional populations for some of these species are likely to exist and may be discovered over time. We recognize that designation of critical habitat for these species likely does not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, this critical habitat designation does not signal that habitat outside the designation is unimportant or may not be required for recovery. Habitat areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, and the section 9 take prohibition, as determined on the basis of the best available information at the

time of the action. It is possible that federally funded or assisted projects affecting listed species outside their designated critical habitat areas could jeopardize those species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation may not totally coincide with the direction and substance of future recovery plans, habitat conservation plans (HCP), or other species conservation planning and recovery efforts if new information shows changes are needed.

Methods

As required by the Act and regulations (section 4(b)(2) and 50 CFR 424.12), we used the best scientific and commercial information available to determine critical habitat areas that contain the physical and biological features that are essential for the conservation of these nine species. This information included: (1) Peer-reviewed scientific publications; (2) the final listing rule for the nine Bexar County karst invertebrate species (65 FR 81419); (3) unpublished field data collected by Service biologists; (4) unpublished survey reports, notes and communications with other qualified biologists or experts; (5) published descriptions of the regional geology (Veni 1988; Soil Conservation Service 1962; Veni 1994); (6) the Endangered Species Recovery Plan for Endangered Karst Invertebrates in Travis and Williamson Counties, Texas, (USFWS 1994); and (7) digital orthophotographs flown in March 2001 obtained from the Bexar County Appraisal District.

In determining the areas in Bexar County that are essential to the conservation of the listed invertebrates, we considered all karst features currently known to be occupied and the surrounding surface ecosystem on which the species depend. We believe that other occupied karst features likely exist in Bexar County that are essential to species survival, especially for those species known from only a few locations (such as *Cicurina vespera, Cicurina venii, Batrisoides venyivi*, and *Neoleptoneta microps*). However, we do not currently know where these locations are and therefore cannot include them in this critical habitat designation.

Primary Constituent Elements

We are required to consider those physical and biological features essential to the conservation of these nine karst invertebrates that may require special management considerations and protection. These features are termed primary constituent elements. Primary constituent elements include but are not limited to: space for individual and population growth and for normal behavior; food, water, air, minerals and other nutritional or physiological requirements; cover or shelter; and habitats that are protected from disturbance and represent the historic geographical and ecological distributions of the species.

The primary constituent elements required by the nine karst invertebrates consist of: (1) The physical features of karst-forming rock containing subterranean spaces with stable temperatures, high humidities (near saturation) and suitable substrates (for example, spaces between and underneath rocks suitable for foraging and sheltering), and (2) the biological features of a healthy surface community of native plants (for example, juniper-oak woodland) and animals (for example, cave crickets) surrounding the karst feature that provides nutrient input and buffers the karst ecosystem from adverse effects (from, for example, non-native species invasions, contaminants, and fluctuations in temperature and humidity).

The areas proposed as critical habitat for the nine karst invertebrates are designed to incorporate what is essential for their conservation. Habitat components that are essential for these species meet the primary biological needs of foraging, reproduction and refugia from human induced or other environmental threats. Karst ecosystems surrounded by a vegetative community that supports cave crickets and other trogloxenes and troglophiles; where water quality and quantity in the surface and subsurface drainage basin are protected; and that are protected from unrestricted human-entry and other threats (such as fire ants) are essential for the conservation of viable populations of these endangered karst invertebrates.

Criteria Used To Delineate Critical Habitat

We used several criteria to identify and delineate lands for designation as critical habitat: caves known to contain one or more of the nine endangered karst invertebrates; the footprint of the known occupied cave, including the known and estimated subsurface extent; contiguous karst deposits; and at least 36 ha (90 ac) of vegetation surrounding each known occupied cave or complex of caves essential to the functioning of a healthy ecosystem.

Species location information was obtained from presence/absence survey reports submitted during project consultations with the Service, annual reports on research and recovery activities conducted under a section 10(a)(1)(A) scientific permit, section 6 species status reports, and literature published in peer reviewed journals. Survey reports and scientific permit annual reports also contained cave location information, typically in the form of a cave location indicated on a U.S. Geological Survey topographic maps, and a map of the cave footprint. We submitted a request to the Texas Speleological Survey (TSS) for any available digital location data (UTM coordinates) for Bexar County caves known to contain one or more of the nine endangered species. TSS is a non-profit corporation established in 1961 to collect, organize, and maintain information on Texas caves and karst for scientific, educational, and conservation purposes, and to support safe and responsible cave exploration, and is affiliated with the Texas Memorial Museum, the Texas Speleological Association, and the National Speleological Society. TSS provided all available digital location data, and reviewed and confirmed our location data for caves where no digital information was available. The precision of the locations for which digital location data were available ranged from 1 m to 10 m (3ft to 33 ft) and data documented on topographic maps was estimated to be accurate to within 10 m to 20 m (33 ft to 66 ft). This variability in precision was taken into account when delineating proposed boundaries. The TSS provided digital location information to us based on our agreement that the information would only be accessible to the Austin Ecological Services Field Office staff and would not be released. We further agreed that any requests for such information would be directed to TSS as owners of the data. The location of the known occupied caves within each unit is not specified in order to protect these caves from vandalism.

We referred to Veni's 1994 karst zones maps to ensure that the majority of the lands within each proposed unit overlaid a contiguous deposit of karst-bearing rock either known to contain the listed species (Zone 1) and/or having a high probability of suitable habitat for the listed species (Zone 2) in order to maintain subsurface connectivity for species movement throughout the contiguous karst deposit. Since the 1994 report, a significant amount of additional information has become available, either as a result of the discovery of new caves containing the listed species, or additional biological surveys conducted in previously

mapped caves and/or as a result of the release of information not available at the time of the 1994 report. As a result, some of these caves for which critical habitat is being proposed are depicted as occurring within Zone 2. These areas of Zone 2 now meet the definition of Zone 1. See the previous ''Subsurface Environment'' section for definitions of Veni's karst zones.

Where possible, the proposed critical habitat units contain at least 36 ha (90 ac) of self-reproducing native vegetated area surrounding each known occupied cave or complex of caves. This vegetated area includes a core vegetative community, cave cricket foraging area; and buffer areas that protect the core habitat from impacts associated with fragmentation, isolation, and edge effects. This area also includes the local surface and subsurface drainage areas, to the extent known.

We consulted recent digital orthophotographs (March 2001) and parcel maps (generated in early 2002) obtained from the Bexar County Appraisal District to determine the current status of habitat surrounding the known occupied caves and the extent of fragmentation caused by existing development within and adjacent to each habitat area. Several units were enlarged to encompass undisturbed vegetated areas to compensate for internal fragmentation due to existing development. Where possible, boundary lines were drawn along identifiable landmarks including roads, named creeks and rivers, and property boundaries. Several units were described as a circular area encompassed within a square or rectangle bounded by corner points given in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83). Coordinates were derived from the 2001 digital orthophotographs. A description of each unit and the current status of the lands in and around the unit are presented below under ''Proposed Critical Habitat Unit Descriptions''.

Existing human-constructed, above ground, impervious structures and associated landscaping within the boundaries of mapped units do not contain the primary constituent elements and are not considered to be critical habitat. Such features and structures include but are not limited to buildings and paved roads. However, areas below ground under these structures and vegetation are considered to be critical habitat since subterranean spaces containing these species and/or transmitting moisture and nutrients through the karst ecosystem extend, in some cases, underneath these existing human-constructed structures and landscaped areas.

Critical Habitat Proposal

Lands proposed as critical habitat for the nine karst invertebrates occur in 25 separate units with a total area of approximately 3,857 ha (9,516 ac). The lands within the proposed units are under private, city, State, and Federal ownership. Table 2 below lists the known occupied caves, the karst fauna region, the total area, land ownership, and the listed species that occur within each proposed unit.

TABLE 2.—KNOWN OCCUPIED CAVES, THE KARST FAUNA REGION (KFR), TOTAL AREA (HECTARES (HA), ACRES (AC)), LAND OWNERSHIP AND LISTED SPECIES THAT OCCUR WITHIN EACH PROPOSED CRITICAL HABITAT UNIT

Unit and known caves in unit	KFR	Total area of unit	Ownership	Listed species in unit
1a. Bone Pile Cave Surprise Sink	Government Canyon	76 ha, 188 ac	State	*N. microps.* *R. infernalis.*
1b. Government Canyon Bat Cave	Government Canyon	47 ha, 116 ac	State	*C. vespera.* *N. microps.* *R. exilis.* *R. infernalis.*
1c. Lost Pothole	Government Canyon	47 ha, 116 ac	State	*C. madla.*
1d. Lithic Ridge Cave	Government Canyon	47 ha, 116 ac	State	*R. infernalis.*
1e. Canyon Ranch Pit* Fat Man's Nightmare Cave* Pig Cave San Antonio Ranch Pit Scenic Overlook Cave* Tight Cave	Government Canyon	341 ha, 842 ac	Private, State	*R. infernalis.* *R. exilis.* *B. venyivi.*
2. Logan's Cave Madla's Drop Cave	Helotes	99 ha, 245 ac	Private	*C. madla.* *R.infernalis.* *R. exilis.*
3. Helotes Blowhole* Helotes Hilltop*	Helotes	63 ha, 154 ac	Private	*B. venyivi.* *C. madla.* *R. infernalis.* *R. exilis.*
4. Kamikazi Cricket Cave	UTSA	63 ha, 154 ac	Private	*R. infernalis.* *R. exilis.*
5. Christmas Cave	Helotes	47 ha, 116 ac	Private	*B. venyivi.* *C. madla.* *R. infernalis.* *R. exilis.*
6. John Wagner Ranch Cave No. 3*	UTSA	45 ha, 111 ac	Private	*R. infernalis.* *R. exilis.*
7. Young Cave No. 1	UTSA	50 ha, 123 ac	Private	*R. exilis.*
8. Hills and Dales Pit* Robber's Cave Three Fingers Cave	UTSA	174 ha, 428 ac	Private	*C. madla.* *R. infernalis.* *R. exilis.*
9. Mastodon Pit	UTSA	71 ha, 175 ac	State, Private	*R. exilis.*
10. Flying Buzzworm Cave Headquarters Cave Low Priority Cave	Stone Oak	367 ha, 906 ac	Federal, City, Private	*C. madla.* *R. infernalis.* *R. exilis.*

TABLE 2.—KNOWN OCCUPIED CAVES, THE KARST FAUNA REGION (KFR), TOTAL AREA (HECTARES (HA), ACRES (AC)), LAND OWNERSHIP AND LISTED SPECIES THAT OCCUR WITHIN EACH PROPOSED CRITICAL HABITAT UNIT—Continued

Unit and known caves in unit	KFR	Total area of unit	Ownership	Listed species in unit
11. 40 mm Cave B–52 Cave Backhole Boneyard Pit Bunny Hole Cross the Creek Cave Dos Viboras Cave Eagle's Nest Cave Hilger Hole Hold-Me-Back Cave Isocow Cave MARS Pit MARS Shaft Pain in the Glass Cave Platypus Pit Poor Boy Baculum Cave Root Canal Cave Root Toupee Cave Strange Little Cave Up the Creek Cave	Stone Oak	1,273 ha, 3,143 ac	Federal	*R. exilis.*
12. Hairy Tooth Cave Ragin' Cajun Cave	Stone Oak	105 ha, 258 ac	Private	*R. exilis.*
13. Black Cat Cave	Stone Oak	51 ha, 125 ac	Private	*R. exilis.*
14. Game Pasture Cave No. 1 King Toad Cave Stevens Ranch Trash	Culebra Anticline	173 ha, 426 ac	Private	*R. infernalis.*
15. Braken Bat Cave Isopit Obvious Little Cave Wurzbach Bat Cave	Culebra Anticline	195 ha, 481 ac	Private	*C. venii.* *R. infernalis.*
16. Caracol Creek Coon Cave	Culebra Anticline	61 ha, 152 ac	Private	*R. infernalis.*
17. Madla's Cave*	Helotes	48 ha, 118 ac	Private	*C. madla.* *R. infernalis.*
18. Mattke Cave Scorpion Cave	UTSA	40 ha, 100 ac	Private	*R. nfernalis.*
19. Genesis Cave	Stone Oak	59 ha, 146 ac	Private	*R. infernalis.*
20. Robber Baron Cave	Alamo Heights	160 ha, 395 ac	Private	*C. baronia.* *T. cokendolpheri.*
21. Hornet's Last Laugh Pit Kick Start Cave Springtail Crevice	Stone Oak	155 ha, 382 ac	Private	*R. exilis.*
Totals: 25 57		3,857 ha, 9,516 ac.		

*Indicates caves and their associated preserve lands that have special management under La Cantera's Section 10 permit and have therefore not been included in the proposed critical habitat designation. These caves and their associated preserve lands were not included in the totals in this table.

The lands within the proposed critical habitat units, with the exception of Units 19 and 20, provide the full range of primary constituent elements needed by the nine karst invertebrates including (1) the physical features of karst-forming rock containing subterranean spaces with stable temperatures, high humidities (near saturation) and suitable substrates (for example, spaces between and underneath rocks suitable for foraging and sheltering), and (2) the biological features of a healthy surface community of native plants (for example, juniper-oak woodland) and animals (for example, cave crickets) surrounding the karst feature that provide nutrient input and buffers the karst ecosystem from adverse effects (from, for example, non-native species invasions, contaminants, and fluctuations in temperature and humidity). Lands within Units 19 and 20 are heavily urbanized and intensive management may be required to provide nutrients and water to the listed species within these units. See ''Proposed Critical Habitat Unit Descriptions'' below for detailed descriptions of all units.

Twelve caves known to contain one or more of the listed species were not included in the proposed critical habitat designation. The caves referred to as ''unnamed cave ½ mile N of Helotes'' and ''5 miles NE of Helotes'' were not specifically included because their precise locations are unknown.

La Cantera Cave No. 1 and La Cantera Cave No. 2 were also not included in this proposed critical habitat designation. La Cantera received a section 10(a)(1)(B) permit for take of the listed species in La Cantera Cave No. 1 and La Cantera Cave No. 2. After evaluating the HCP and associated information, we determined that a sufficient number of caves containing these species remained so that take of the species within these two caves would not preclude recovery of the species. Therefore, La Cantera Cave No. 1 and La Cantera Cave No. 2 were not included in this designation because

they are not considered essential to the conservation of the species. The decision to issue the permit was also based on La Cantera's proposal to mitigate for take of the species within these caves by purchasing and managing eight caves known to contain one or more of the listed species for which take was being permitted and their associated preserve lands. These mitigation caves are Canyon Ranch Pit, Fat Man's Nightmare Cave, and Scenic Overlook Cave and the surrounding approximately 30 ha (75 ac) (within Unit 1e); Helotes Blowhole and Helotes Hilltop caves and the surrounding approximately 10 ha (25 ac) (within Unit 3); John Wagner Cave No. 3 and the surrounding approximately 1.6 ha (4 ac) (within Unit 6); Hills and Dales Pit and the surrounding approximately 28 ha (70 ac) (within Unit 8); and Madla's Cave and the surrounding approximately 2 ha (5 ac) (within Unit 17). La Cantera recently completed their purchase of these karst preserves through conservation easement and/or fee simple title and has agreed to protect and manage them in perpetuity in accordance with the conservation needs of the species. Since these areas do not require additional special management beyond that provided for through the HCP and do not meet the definition of critical habitat, these caves and their associated preserve lands were also excluded from this proposed critical habitat designation.

Proposed Critical Habitat Unit Descriptions

Units 1a, 1b, 1c, 1d

Units 1a, 1b, 1c, and 1d are located on Government Canyon State Natural Area (GCSNA), an approximately 2,688-ha (6,643-ac) area owned and managed by the Texas Parks and Wildlife Department (TPWD). GCSNA was purchased in 1993 and is not currently accessible to the public. The projected opening is late 2003 or early 2004. Lands within the four proposed units are undeveloped, with several one-lane, unpaved roads which will serve primarily as pedestrian trails once the facility opens. Unauthorized public vehicular traffic will not be allowed (George Kegley, TPWD, pers. comm. 2002). An unpaved road/trail crosses Units 1a, 1b, and 1c. Unit 1a contains two known occupied caves and Units 1b, 1c, and 1d each contain one cave known to contain listed species (Table 2).

These units were delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied caves, overlying a contiguous deposit of karst-bearing rock. The majority of GCSNA, including the proposed units, are defined by Veni's 1994 karst zone maps as occurring within Zone 2. Since lands within this unit are primarily undeveloped and the property is under one ownership, we were unable to delineate the boundaries of the units using roads or parcel boundaries, and instead delineated the units as squares encompassing approximately 36-ha circular areas containing the endangered species cave habitat.

Unit 1e

The majority of Unit 1e consists of large tracts of privately owned land that is primarily undeveloped with the exception of several small private and/or county roads. A small corner of GCSNA also occurs in this unit. No highways or major roadways occur within the unit. This unit contains six caves known to contain listed species (Table 2). Three of the caves are located on an approximately 162–ha (400–ac) privately-owned, undeveloped, property bordered by GCSNA to the west and south, La Cantera's 30–ha (75–ac) Canyon Ranch preserve to the north, and by the City of San Antonio's Iron Horse Canyon property on the east. The 162–ha (400–ac) property also contains four caves that may contain suitable habitat for one or more of the listed species, but require additional surveys during suitable environmental conditions (Kemble White, SWCA, pers.comm. 2002). Three of these caves are within the 36–ha (90–ac) habitat area of a known occupied cave on the property.

Three of the six known occupied caves within this unit and their associated preserve lands have been excluded from this critical habitat designation. The 30–ha (75–ac) Canyon Ranch Preserve contains Canyon Ranch Pit, Fat Man's Nightmare Cave, and Scenic Overlook Cave and has been acquired by La Cantera under their Section 10(a)(1)(B) permit, which also requires that these caves and the surrounding preserve lands be managed in perpetuity for the conservation of the species. Since these lands do not require special additional management, they have been excluded from critical habitat designation.

The City of San Antonio's Iron Horse Canyon property is approximately 241 ha (595 ac). Two caves containing listed species occur on the property (Kemble White, SWCA, pers. comm. 2002). However, the surveys were conducted in these caves prior to the species' listing and to date, we have not been able to obtain a copy of the survey report with cave names and precise locations.

This unit was delineated to encompass at least 36 ha of vegetation around each of the six known occupied caves overlying contiguous deposits of karst-bearing rock. Unit 1e is defined by Veni's 1994 karst zone maps as occurring within Zone 2. This unit was enlarged to include the City of San Antonio's Iron Horse Canyon property, which contains two known occupied caves. Since we are unsure about the location of these caves, the entire property was included within the critical habitat designation. This unit may be modified depending on additional location information about these two caves obtained during the public comment period for this proposed rule. The unit was also enlarged to include one of the four caves on the 162-ha (400-ac) property, which is believed to contain suitable habitat for one or more of the listed species, and a 36–ha habitat area around the cave. This unit may be modified depending on the results of additional species surveys that may be conducted in this cave during the public comment period for this proposed rule. The unit boundaries were delineated following roads and parcel boundaries.

Unit 2

Unit 2 consists of large, wooded tracts which appear to be undeveloped with the exception of several buildings. The unit contains two or three small private or county roads, but no highways or major roadways. Two caves known to contain listed species occur within Unit 2 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around each of the two known occupied caves overlying a contiguous deposit of karst-bearing rock. Unit 2 is defined by Veni's 1994 karst zone maps as occurring within Zone 2. The unit was enlarged to encompass undisturbed, unfragmented woodland to compensate for internal fragmentation due to several small roads, buildings and an area from which the majority of the woodland has been removed. The unit boundaries were delineated primarily along existing roads and parcel boundaries.

Unit 3

Unit 3 consists of relatively large, wooded tracts. The tracts along the northern side of the unit have been developed with homes, but it appears that the remainder of the properties within the unit are undeveloped. The unit contains several small residential roads, but no major roadways or

highways. The unit is bordered by Bandera Road, a four-lane divided roadway, and by two-lane residential roads. The unit contains two known occupied caves (Table 2) which, along with their associated preserve lands, have been excluded from this critical habitat designation. Helotes Blowhole and Helotes Hilltop Cave and the approximately 10 ha (25 ac) surrounding the caves has been acquired by La Cantera under their Section 10(a)(1)(B) permit which requires that these caves and the surrounding preserve lands be managed in perpetuity for the conservation of the species. Since these lands do not require additional special management, they have been excluded from critical habitat designation.

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the two known occupied caves overlying contiguous deposits of karst-bearing rock. The majority of Unit 3 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the two known occupied caves while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. The unit was enlarged to include additional woodland areas to compensate for internal fragmentation due to several small roads, buildings and an area from which the majority of the woodland has been removed. The unit boundaries were delineated along existing roads.

Unit 4

Unit 4 consists of relatively large wooded tracts subdivided for residential development, of which few appear to be developed. The unit contains several residential roads, but no major roadways or highways. Lands surrounding Unit 4 consist of relatively large subdivided residential tracts that appear to be largely undeveloped. One cave known to contain listed species occurs within Unit 4 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied cave, overlying a contiguous deposit of karst-bearing rock. The majority of Unit 4 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied cave while maximizing the amount of undisturbed, unfragmented vegetation in the unit. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to several residential roads and residential development that occur within the unit. We were unable to delineate the boundaries of the unit using roads or parcel boundaries due to their configuration and instead delineated the unit as a square encompassing an approximately 36–ha circular area containing the endangered species cave habitat.

Unit 5

Unit 5 consists of a large tract of undeveloped, woodland and several smaller, wooded tracts developed with homes and an associated residential road. The unit is bordered to the north and northwest by large tracts of undeveloped woodland and bordered on the remaining sides by smaller tracts with some residential development. One cave known to contain listed species occurs within Unit 5 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied cave, overlying a contiguous deposit of karst-bearing rock. The majority of Unit 5 is defined by Veni's 1994 karst zone maps as occurring within Zones 1 and 2. The unit was delineated to encompass the majority of the contiguous Zone 1 and 2 karst deposits associated with the known occupied cave while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. We were unable to delineate the boundaries of the unit using roads or parcel boundaries due to their configuration and instead delineated the unit as a square encompassing an approximately 36-ha circular area containing the endangered species cave habitat.

Unit 6

Unit 6 consists primarily of relatively large tracts of undeveloped woodland with several smaller tracts developed with homes. The unit is bordered to the east by large, wooded, undeveloped tracts and to the west by a residential development. The unit contains one known occupied cave (Table 2) which along with its associated preserve lands have been excluded from this critical habitat designation. John Wagner Ranch Cave No. 3 and the approximately 1.6 ha (4 ac) surrounding the cave has been acquired by La Cantera under their Section 10(a)(1)(B) permit which requires that the cave and the surrounding preserve lands be managed in perpetuity for the conservation of the species. Since these lands do not require additional special management, they have been excluded from critical habitat designation.

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied cave, overlying a contiguous deposit of karst-bearing rock. The majority of Unit 6 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied cave while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. We were unable to delineate the boundaries of the unit using roads or parcel boundaries due to their configuration and instead delineated the unit as a square encompassing an approximately 36-ha circular area containing the endangered species cave.

Unit 7

Unit 7 consists of relatively large, wooded tracts, several of which have been developed with homes. The unit contains several residential roads, but no highways or major roadways. One cave known to contain listed species occurs within Unit 7 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied cave, overlying a contiguous deposit of karst-bearing rock. The majority of Unit 7 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied cave while also maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. We were unable to delineate the boundaries of the unit using roads or parcel boundaries due to their configuration and instead delineated the unit as a square encompassing an approximately 36-ha circular area containing the endangered species cave.

Unit 8

The majority of the lands within Unit 8 consist of large tracts of primarily undeveloped woodland. The southeastern portion of the unit has been subdivided and developed with homes. Part of this area has been developed with residential roads, but currently contains no homes. The unit contains three known occupied caves (Table 2). One of the caves along with its associated preserve lands, have been excluded from this critical habitat designation. Hills and Dales Pit and approximately 28 ha (70 ac) surrounding the cave have been acquired by La Cantera under their Section 10(a)(1)(B) permit which requires that the cave and the

surrounding preserve lands be managed in perpetuity for the conservation of the species. Since these lands do not require additional special management, they have been excluded from critical habitat designation.

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around each of the three known occupied caves, overlying contiguous deposits of karst-bearing rock. The majority of Unit 8 is defined by Veni's 1994 karst zone maps as occurring within Zones 1 and 2. The unit was delineated to encompass the majority of the contiguous Zone 1 and 2 karst deposits associated with the known occupied caves while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to several small roads and residential development within the unit. The unit boundaries were primarily delineated along existing roads and parcel boundaries.

Unit 9

Unit 9 consists of a large tract of undeveloped, woodland. The unit is bordered to the north by Loop 1604, a major highway, and to the south by a two-lane roadway. The unit is bordered to the west by the University of Texas at San Antonio campus and to the east by some commercial development. This unit contains one cave known to contain listed species (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied cave, overlying a contiguous deposit of karst-bearing rock. Roughly half of Unit 9 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied cave while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. The unit boundaries were delineated along existing roads and a named creek.

Unit 10

Unit 10 consists of several large tracts of woodland. Most of Unit 10 is undeveloped. Roughly half of this unit consists of lands owned and operated by the Department of Defense's (DOD) Camp Bullis. The majority of the DOD-owned area within this unit is not extensively developed with structures or major roadways, but does contain areas used for some types of military training maneuvers. The other half of the unit consists of Eisenhower Park, owned by the City of San Antonio, and a privately-owned tract that is currently undeveloped. Three caves known to contain listed species occur within Unit 10 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around each of the three known occupied caves, overlying contiguous deposits of karst-bearing rock. The majority of Unit 10 is defined by Veni's 1994 karst zone maps as occurring within Zones 1 and 2. The unit was delineated to encompass the majority of the contiguous Zone 1 and 2 karst deposits associated with the known occupied caves while maximizing the amount of undisturbed, unfragmented vegetation within the unit. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to several roads and buildings, as well as potential impacts due to military training maneuvers. The unit boundaries were delineated along existing roads and parcel boundaries.

Unit 11

Unit 11 consists of the southeastern portion of the DOD's Camp Bullis. The area is not extensively developed with structures or major roadways, but does contain areas used for some types of military training maneuvers and contains large areas where the woodland vegetation was cleared at some point in the past. Less than half of the known occupied caves are located within woodland areas. Lands to the east and south of the unit are undergoing rapid suburban development. This unit contains 20 caves containing listed species (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around each of the 20 known occupied caves, overlying contiguous deposits of karst-bearing rock. The majority of Unit 11 is defined by Veni's 1994 karst zone maps as occurring within Zone 2. The unit was delineated to encompass the majority of the contiguous Zone 2 karst deposit associated with the known occupied caves while maximizing the amount of undisturbed and unfragmented woodland surrounding the cave. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to several roads and developed areas, and potential impacts associated with military training maneuvers. The unit boundaries were delineated primarily along existing roads and parcel boundaries.

Unit 12

The majority of Unit 12 consists of lands that have been subdivided for residential development. Single-family homes have been constructed on roughly half of the subdivided lots. Several residential roads and one major roadway occur within the unit. The unit is bordered to the east by U.S. Highway 281, to the south by a quarry and to the west by a school and some residential development. Several relatively large tracts of undeveloped land occur within and to the north of the unit. Two caves known to contain listed species occur within Unit 12 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around each of the two known occupied caves, overlying contiguous deposits of karst-bearing rock. The majority of Unit 12 is defined by Veni's 1994 karst zone maps as occurring within Zone 2. The unit was delineated to encompass the majority of the contiguous Zone 2 karst deposit associated with the known occupied caves while maximizing the amount of undisturbed and unfragmented woodland surrounding the cave. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to existing residential development within the unit. The unit boundaries were primarily delineated along existing roads and a named creek.

Unit 13

Unit 13 consists primarily of large, currently undeveloped wooded tracts with several smaller tracts developed with homes. Bulverde Road, a major roadway, bisects the western portion of the unit. The unit is bordered by dense residential development on the northwest and significantly less dense residential development on the northeast. The lands to the south, southeast, and southwest consist of large, undeveloped, wooded, tracts. One cave containing listed species occurs within this unit (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied cave, overlying a contiguous deposit of karst-bearing rock. The majority of Unit 13 is defined by Veni's 1994 karst zone maps as occurring within Zones 1 and 2. The unit was delineated to encompass the majority of the contiguous Zone 1 and 2 karst deposits associated with the known occupied caves while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. The unit was enlarged to include additional woodland to compensate for internal

fragmentation due to existing residential development and the presence of a major roadway within the unit. The unit boundaries were primarily delineated along parcel boundaries and existing roads.

Unit 14

Unit 14 consists of several large tracts of undeveloped woodland with no major roadways or highways. Three caves known to contain listed species occur within Unit 14 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around each of the three known occupied caves, overlying contiguous deposits of karst-bearing rock. Unit 14 is defined by Veni's 1994 karst zone maps as occurring within Zones 1 and 2. The unit was delineated to encompass the majority of the contiguous Zone 1 and 2 karst deposits associated with the known occupied caves while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. We were unable to delineate the boundaries of the unit using roads or parcel boundaries due to their configuration and instead delineated the unit as a rectangle encompassing an approximately 36-ha area around each of the three known occupied caves.

Unit 15

The majority of the lands within Unit 15 are within a subdivision. Tracts in the subdivision are relatively large and still contain wooded vegetation. Two large, wooded, undeveloped tracts are located east of the subdivision. The unit contains several residential roads, but no major roadways or highways. Unit 15 contains four caves known to contain listed species (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around each of the four known occupied caves, overlying contiguous deposits of karst-bearing rock. The majority of Unit 15 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied caves while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to existing residential development within the unit. The unit boundaries were delineated along parcel boundaries and existing roads.

Unit 16

Unit 16 contains several large, primarily undeveloped tracts of woodland. However, Loop 1604, a major highway, bisects the eastern half of the unit. One cave known to contain endangered species occurs within Unit 16 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied cave, overlying a contiguous deposit of karst-bearing rock. Unit 16 is defined by Veni's 1994 karst zone maps as occurring almost entirely within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied cave while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to Loop 1604. We were unable to delineate the boundaries of the unit using roads or parcel boundaries due to their configuration and instead delineated the unit as a rectangle encompassing an approximately 36-ha area around the known occupied cave.

Unit 17

Unit 17 consists of relatively large tracts of undeveloped woodland with only a few small private or county roads. Lands adjacent to the unit are also undeveloped and wooded. The unit contains one known occupied cave (Table 2) which, along with its associated preserve lands, has been excluded from this critical habitat designation. Madla's Cave and approximately 2 ha (5 ac) surrounding the cave have been acquired by La Cantera under their Section 10(a)(1)(B) permit which requires that the cave and the surrounding preserve lands be managed in perpetuity for the conservation of the listed species. Since these lands do not require additional special management, they have been excluded from critical habitat designation.

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the known occupied cave, overlying a contiguous deposit of karst-bearing rock. Roughly half of Unit 17 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied caves while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. The unit boundaries were delineated along parcel boundaries.

Unit 18

The northern portion of Unit 18 consists of relatively large, wooded tracts subdivided for residential development, the majority of which appear to be undeveloped. The southern portion of the unit is lined with developed residential lots. Unit 18 is bisected by one residential road. Adjacent lands to the west consist of relatively large residential tracts that appear to be currently undeveloped. The remaining sides are bordered by developed residential and commercial properties. Two caves known to contain listed species occur within Unit 18 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the two known occupied caves, overlying contiguous deposits of karst-bearing rock. About half of Unit 18 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied caves while maximizing the amount of undisturbed, unfragmented woodland in the unit. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to existing residential development within the unit. The unit boundaries were delineated along parcel boundaries and existing roads.

Unit 19

The majority of the land within Unit 19 has been developed for residential and/or commercial uses. Unit 19 is bordered to the east by Stone Oak Road, a major roadway, and to the south by Loop 1604, also a major roadway. However, several undeveloped areas exist on lands adjacent to the unit to the northwest. Genesis Cave, the only known occupied cave within this unit (Table 1), is the deepest explored cave in Bexar County, extending below the water table, and has been mapped down to 78 m (256 ft) (Veni 1988).

The majority of Unit 19 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the majority of the contiguous Zone 1 karst deposit associated with the known occupied cave. The unit boundaries were delineated along parcel boundaries and existing roads.

Surface vegetation within Unit 19 has been significantly reduced and degraded as a result of urban development, and intensive management may be needed to

provide nutrients and water to the listed species in this cave. Lands within this unit do not contain the primary constituent element of a healthy surface community of native vegetation. Therefore, this unit is being designated as critical habitat based on the presence of an intact subsurface environment.

Unit 20

Numerous residential roads and one major roadway, Nacogdoches Road, occur within and/or cross Unit 20. This unit contains one known occupied cave, Robber Baron Cave (Table 2). This cave is by far the longest cave in Bexar County consisting of approximately 1.51 km (0.94 mi) of passages known within a square area approximately 100 m (328 ft) on each side (Veni 1988). Prior to the extensive development that has occurred in the area, the cave's footprint was estimated to extend at least 100 m (328 ft) farther east to a water well, 600 m (1,969 ft) southwest to a now-sealed, extensive maze cave and about 1.2 km (0.75 mi) to the southwest to another well (Veni 1988). The estimated footprint of the cave now extends underneath numerous residential and commercial developments. Intensive management may be needed to provide nutrients and water to the two listed species found in this cave which are only known from Robber Baron Cave, making it essential to the conservation of these species. The Texas Cave Management Association (TCMA) now owns and manages the cave and about 0.2 ha (0.5 ac) surrounding the opening. TCMA, in cooperation with the Service's Partners for Fish and Wildlife Program, is currently working to replace the existing cave gate, which consists of a concrete bunker created to deter access, with a new gate that will facilitate exchange of air and nutrients into the cave as well as restrict access. TCMA also plans to restore the grounds immediately surrounding Robber Baron Cave to a more natural state and repair the perimeter fence to regulate access.

The majority of Unit 20 is defined by Veni's 1994 karst zone maps as occurring within Zone 1. The unit was delineated to encompass the estimated extent of the cave's subsurface drainage according to Veni (1997) and a majority of the contiguous Zone 1 karst deposit associated with Robber Baron Cave. The unit boundaries were delineated along parcel boundaries and existing roads.

Surface vegetation within Unit 20 has been significantly reduced and degraded as a result of urban development. Lands within this unit do not contain the primary constituent element of a healthy surface community of native vegetation. Therefore, this unit is being designated as critical habitat based on the presence of an intact subsurface environment.

Unit 21

Unit 21 consists of several large tracts of undeveloped land and several smaller tracts developed with homes and several residential roads. Mud Creek runs through the unit. Three caves known to contain listed species occur with Unit 21 (Table 2).

This unit was delineated to encompass at least 36 ha (90 ac) of vegetation around the three known occupied caves, overlying contiguous deposits of karst-bearing rock. Unit 21 is defined by Veni's 1994 karst zone maps as occurring within Zone 2. The unit was delineated to encompass the majority of the contiguous karst deposit associated with the known occupied caves while maximizing the amount of undisturbed, unfragmented woodland surrounding the cave. The unit was enlarged to include additional woodland to compensate for internal fragmentation due to existing residential development within the unit. We were unable to delineate the boundaries of the unit using roads or parcel boundaries due to their configuration and instead delineated the unit as a rectangle encompassing an approximately 36-ha area around each of the three known occupied caves.

Effects 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. Destruction or adverse modification occurs when a Federal action directly or indirectly alters critical habitat to the extent that it appreciably diminishes the value of the critical habitat for both 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)(2) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is designated or proposed. Activities on Federal lands that may affect the listed karst invertebrates or their proposed critical habitat will require section 7 consultation with the Service. Actions on private or State lands receiving funding or requiring a permit from a Federal agency also will be subject to the section 7 consultation process if the action may affect proposed critical habitat. Federal actions not affecting the species or its proposed critical habitat, as well as actions on non-Federal lands that are not federally funded or permitted will not require section 7 consultation. 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 on any action likely to jeopardize the continued existence of a species proposed for listing 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 are advisory. We may issue a formal conference report, if requested by the Federal action agency. Formal conference reports include an opinion that is prepared according to 50 CFR 402.14, as if the species was listed or critical habitat was designated. We may adopt the formal conference report as the biological opinion when the species is listed or 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)).

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that actions they authorize, fund, or carry out are unlikely to jeopardize the continued existence of such a species or 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, the Federal agency would ensure that the permitted actions do not destroy or adversely modify critical habitat.

If we issue a biological opinion, resulting from a section 7 consultation, concluding that a Federal action is likely to result in the destruction or adverse modification of critical habitat, we would also provide reasonable and prudent alternatives to the action, if any are identifiable. Reasonable and prudent alternatives are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the

Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Service's Director believes would avoid destruction or adverse modification of critical habitat.

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 with us on actions for which formal consultation has been completed if those actions may affect designated critical habitat.

Activities on Federal lands that may adversely affect any of the nine karst invertebrates or their 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 U.S. Army Corps of Engineers (ACOE) under section 404 of the Clean Water Act or a Construction General permit from the U.S. Environmental Protection Agency, or some other Federal action, including funding (for example, from the Federal Highway Administration, Federal Aviation Administration, Federal Emergency Management Agency (FEMA), Natural Resources Conservation Service (NRCS), or Housing and Urban Development (HUD)) will also continue to be subject to the section 7 consultation process. Federal actions not adversely affecting listed species or critical habitat and actions on non-Federal lands that are not federally funded or permitted do not require section 7 consultation.

Section 4(b)(8) of the Act requires us to evaluate briefly in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may adversely modify such habitat or that may be affected by such designation. Activities that may result in the destruction or adverse modification of critical habitat include those that alter the primary constituent elements to an extent that the value of critical habitat for the survival and recovery of any of the nine karst invertebrates is appreciably reduced. Activities that may directly or indirectly adversely affect critical habitat for these karst invertebrates include, but are not limited to:

(1) Removing, thinning, or destroying perennial surface vegetation, with the exception of landscaping associated with existing human-constructed, above ground, impervious structures, occurring in any critical habitat unit, whether by burning, mechanical, chemical, or other means (for example, wood cutting, grading, overgrazing, construction, road building, mining, herbicide application);

(2) Alteration of the surface topography or subsurface geology within any critical habitat unit that results in significant disruption of ecosystem processes that sustain the cave environment. This may include, but is not limited to, such activities as filling cave entrances or otherwise reducing airflow, which limits oxygen availability; modifying cave entrances, or creating new entrances that increases airflow and results in drying; altering natural drainage patterns (surface or subsurface) that alters the amount of water entering the cave or karst feature; removal or disturbance of native surface vegetation; soil disturbance that results in increased sedimentation in the karst environment; increasing impervious cover within any critical habitat unit; and altering the entrance or opening of the cave or karst feature in a way that would disrupt movements of raccoons, opossums, cave crickets, or other animals that provide nutrient input; or otherwise negatively altering the movement of nutrients into the cave or karst feature;

(3) Discharge or dumping of chemicals, silt, pollutants, household or industrial waste, or other harmful material into or near critical habitat units that may affect surface plant and animal communities that support karst ecosystems;

(4) Pesticide or fertilizer application in or near critical habitat units that drain into these karst features or that affect surface plant and animal communities that support karst ecosystems. Careful use of pesticides in the vicinity of karst features may be necessary in some instances to control nonnative fire ants. Guidelines for controlling fire ants in the vicinity of karst features are available from us (see **ADDRESSES** section);

(5) Activities within caves that lead to soil compaction, changes in atmospheric conditions, abandonment of the cave by bats or other fauna; and

(6) Activities that attract or increase access for fire ants, cockroaches, or other invasive predators, competitors or potential vectors for diseases or parasites into caves or karst features within the critical habitat units (for example, dumping of garbage in or around caves or karst features).

Not all of the identified activities will necessarily result in the adverse modification of critical habitat, however, they indicate the potential types of activities that will require section 7 consultation in the future and, therefore, that may be affected by the proposed designation of critical habitat. To properly portray the effects of critical habitat designation, we must compare the section 7 requirements for actions that may affect critical habitat with the requirements for actions that may affect a listed species. All of the areas proposed as critical habitat units are known to contain one or more caves occupied by one or more of the listed karst invertebrates. Therefore, all of the actions described above as potentially adversely affecting critical habitat are also likely to adversely affect the listed species. Federal agencies are already required to consult with us on activities in areas where the species may be affected to ensure that their actions do not jeopardize the continued existence of the species. Therefore, we do not expect that the proposed designation of critical habitat will result in a significant regulatory burden above that already in place due to the presence of the listed species.

If you have questions regarding whether specific activities would constitute adverse modification of critical habitat, please contact the Acting Field Supervisor, Austin Ecological Services Field Office (see the **FOR FURTHER INFORMATION CONTACT** section). Requests for copies of the regulations on listed wildlife and plants, and inquiries about prohibitions and permits, should be directed to the U.S. Fish and Wildlife Service, Endangered Species Act Section 10 Program (see **ADDRESSES** section).

Exclusions Under Section 3(5)(A) Definition

Critical habitat is defined in section 3, paragraph (5)(A) of the Act as—(i) the specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and, (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Special management and protection are not required if adequate management and protection are already in place. Adequate special management or protection is provided by a legally operative plan/agreement that addresses the maintenance and improvement of the primary constituent elements

important to the species and manages for the long-term conservation of the species. If any areas containing the primary constituent elements are currently being managed to address the conservation needs of any of the nine karst invertebrate species and do not require additional management or protection, we may exclude such areas from the proposed rule because they would not meet the definition of critical habitat in section 3(5)(A)(i) of the Act.

We will use the following three guidelines to determine if a plan provides adequate management or protection—(1) A current plan specifying the management actions must be complete and provide sufficient 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.

In determining if management strategies are likely to be implemented, we will consider whether: (1) A management plan or agreement exists that specifies the management actions being implemented or to be implemented; (2) there is a timely schedule for implementation; (3) there is a high probability that the funding source(s) or other resources necessary to implement the actions will be available; and (4) the party(ies) have the authority and long-term commitment to the agreement or plan to implement the management actions, as demonstrated, for example, by a legal instrument providing enduring protection and management of the lands.

In determining whether an action is likely to be effective, we will consider whether: (1) The plan specifically addresses the management needs, including reduction of threats to the species; (2) such actions have been successful in the past; (3) there are provisions for monitoring and assessment of the effectiveness of the management actions; and (4) adaptive management principles have been incorporated into the plan.

Adequate reduction of the threat from non-native invasive species (for example, non-native fire ants), that are already present, adjacent to, and/or within some caves may, to some extent, require different management activities. Although difficult for managers to control at this time, control of non-native fire ant populations is one requirement in determining whether an area is being adequately managed such that it does not meet the definition of critical habitat.

In selecting areas to be designated as critical habitat, we attempted to exclude areas that have a plan that addresses the conservation needs of any of the nine karst invertebrate species and that meets the guidelines described above. We determined that the five karst preserves established by La Cantera as required by their section 10(a)(1)(B) permit should be excluded based on the guidelines given above. These karst preserves include Canyon Ranch preserve (including Canyon Ranch Pit, Fat Man's Nightmare Cave, and Scenic Overlook Cave and the surrounding approximately 30 ha (75 ac) (within Unit 1e); Helotes Blowhole and Helotes Hilltop caves and the surrounding approximately 10 ha (25 ac) (within Unit 3); John Wagner Cave No. 3 and the surrounding approximately 1.6 ha (4 ac) (within Unit 6); Hills and Dales Pit and the surrounding approximately 28 ha (70 ac) (within Unit 8); and Madla's Cave and the surrounding approximately 2 ha (5 ac) (within Unit 17). As required under their permit, La Cantera purchased these lands through conservation easement and/or fee simple title and will ensure that they will be protected in perpetuity and managed in accordance with the conservation needs of the species.

We did not exclude areas that do not have a plan that provides adequate management or protection as described under the guidelines above. Camp Bullis submitted a draft management plan to the Service for the 23 caves on DOD property that are known to contain listed species. These 23 caves are included within 2 proposed critical habitat units (Units 10 and 11). The Service is currently working with Camp Bullis to determine management needed to adequately protect the species and its habitat. Therefore, caves on Camp Bullis were not excluded from the proposed critical habitat designation. It is our understanding that the proposed management plan is currently being revised.

If a management plan for Camp Bullis or other areas proposed as critical habitat (for example, Government Canyon State Natural Area), that addresses the above requirements, can be completed and approved by us prior to the end of the public comment period for this proposed rule, these areas will not be included in the final critical habitat designation.

We are unaware of any other lands within the proposed critical habitat units that have a written plan for the conservation of these species that could have been evaluated for exclusion under section 3(5)(A) of the Act.

Exclusions Under Section 4(b)(2)

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific and commercial information available, and that we consider the economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat designation if the benefits of exclusion outweigh the benefits of designation, provided the exclusion will not result in the extinction of the species. We will conduct an economic analysis for this proposal prior to making a final determination. When completed, we will announce the availability of the draft economic analysis with a notice in the **Federal Register**, and we will provide at least a 30-day public comment period on the draft economic analysis which may fall during or after the 90-day comment period for this proposed rule.

Public Comments Solicited

We intend that any final action resulting from this proposal be as accurate and as effective as possible. Therefore, we solicit comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule. We are particularly interested in comments concerning:

(1) The reasons why any area should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefits of designation will outweigh any threats to the species due to designation;

(2) Specific information on the distribution of each of the nine karst invertebrates, and what areas are essential to the conservation of these species and why;

(3) Whether lands within proposed critical habitat units are currently being managed to address the conservation needs of these listed species

(4) Land use practices and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(5) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, in particular, any impacts on small entities or families;

(6) Economic and other values associated with designating critical habitat for the nine karst invertebrates, such as those derived from non-consumptive uses (such as, hiking, sight-seeing, enhanced watershed protection, improved air quality,

increased soil retention, ''existence values,'' and reductions in administrative costs).

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section).

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold their home address, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Austin Ecological Services Field Office, Austin, Texas (see **ADDRESSES** section).

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent individuals regarding this proposed rule. The purpose of such review is to ensure critical habitat decisions are based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to peer reviewers immediately following publication in the **Federal Register**. We will invite peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and data received during the 90-day comment period on this proposed rule during preparation of final rulemaking. Accordingly, the final decision may differ from this proposal.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical language or jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Is the description of the proposed rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the document? (5) Is the background information useful and is the amount appropriate? (6) What else could we do to make the proposed rule easier to understand?

Send a copy of any comments that concern how we could make this notice easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail comments to *exsec@ios.doi.gov.*

Required Determinations

Regulatory Planning and Review

Executive Order 12866

In accordance with Executive Order (E.O.) 12866, this document is a significant rule and has been reviewed by the Office of Management and Budget (OMB) in accordance with the four criteria discussed below. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating specific areas as critical habitat. The availability of the draft economic analysis will be announced in the **Federal Register** so that it is available for public review and comment.

(a) While we will prepare an economic analysis to assist us in considering whether areas should be excluded from critical habitat designation pursuant to section 4 of the Act, we do not believe this rule will 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, jobs, the environment, public health or safety, or State, local or tribal communities. Therefore, we do not believe a cost benefit and economic analysis pursuant to E.O. 12866 is required.

Under the Act, critical habitat may not be adversely modified by a Federal agency action; critical habitat does not impose any restrictions on non-Federal persons unless they are conducting activities funded or otherwise sponsored or permitted by a Federal agency. Section 7 of the Act requires Federal agencies to ensure that they do not jeopardize the continued existence of the species.

Accordingly, we do not expect the designation of areas as critical habitat that are within the geographical range occupied by the species to 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. The designation of areas as critical habitat where section 7 consultations would not have occurred but for the critical habitat designation may have impacts on what actions may or may not be conducted by Federal agencies or non-Federal persons who receive Federal authorization or funding that are not attributable to the species listing. We will evaluate any impact through our economic analysis (under section 4 of the Act: see the ''Exclusions Under Section 4(b)(2)'' section of this rule). Non-Federal persons who do not have a Federal sponsorship of their actions are not restricted by the designation of critical habitat.

(b) We do not believe this rule would create inconsistencies with other agencies' actions. As discussed above, Federal agencies have been required to ensure that their actions not jeopardize the continued existence of the nine karst invertebrates since their listing on December 26, 2000. We will evaluate any additional impact through our economic analysis. Because of the potential for impacts on other Federal agencies activities, we will continue to review this proposed action for any inconsistencies with other Federal agencies actions.

(c) We do not believe this rule, if made final, would 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 a listed species, and, as discussed above, we will evaluate any additional impacts through an economic analysis.

(d) OMB has determined that this rule raises 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.*)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that

describes the effects of the rule on small entities (such as, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA also amended the RFA to require a certification statement. In today's rule, we are certifying that the rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our rationale.

According to the Small Business Association, small entities include small organizations, such as independent non-profit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule as well as the types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if the rule would affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (for example, housing development, grazing, oil and gas production, timber harvesting, etc.). We apply the ''substantial number'' test individually to each industry to determine if certification is appropriate. In some circumstances, especially with proposed critical habitat designations of very limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the numbers of small entities potentially affected, we also consider whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies; non-Federal activities may be affected to the extent that there is a Federal nexus associated with the non-Federal activity. An example of this nexus would be if a non-Federal activity required a Federal permit. In areas where the species is present, Federal agencies are already required to consult with us under section 7 of the Act on activities that they fund, permit, or implement that may affect any of the nine karst invertebrates. If this critical habitat designation is finalized, Federal agencies must also consult with us if their activities may affect designated critical habitat. However, we do not believe this will result in any additional regulatory burden on Federal agencies or their applicants where consultation would already be required due to the presence of the listed species, because the duty to avoid adverse modification of critical habitat would not likely trigger additional regulatory impacts beyond the duty to avoid jeopardizing the species.

Even if the duty to avoid adverse modification does not trigger additional regulatory impacts in areas where the species is present, designation of critical habitat could result in an additional economic burden on small entities due to the requirement to conduct a reinitiation of a past section 7 consultation to conduct an adverse modification analysis. Since the species were listed on December 26, 2000, the only formal section 7 consultation has been an intra-Service consultation on the La Cantera HCP. However, we did not include the caves that La Cantera received take coverage for under their section 10 permit in the proposed critical habitat designation, so reinitiation of the intra-Service section 7 consultation as a result of this proposed designation is not necessary.

In areas where the species is not present, designation of critical habitat could trigger additional review of Federal activities under section 7 of the Act. Since the species were listed on December 26, 2000, the only formal section 7 consultation has been an intra-Service consultation on the La Cantera HCP. For the purposes of this review and certification under the RFA, we are assuming that any future consultations in the area proposed as critical habitat will be due to the listing of the species and the critical habitat designation.

One of the proposed critical habitat units (Unit 11) and a portion of another (Unit 10) are located on Federal lands. Units 1a, 1b, 1c and 1d are located on GCSNA which is owned and managed by TPWD and Unit 9 is owned by the University of Texas at San Antonio (Table 2). On State lands, activities with no Federal involvement would not be affected by the critical habitat designation.

Sixteen of the twenty-five units in the proposed designation consist entirely of privately-owned lands and four include some private lands within the unit (Table 2). On private lands, activities that lack Federal involvement would not be affected by the critical habitat designation.

In Texas, previous consultations under section 7 of the Act between us and other Federal agencies most frequently involve the U.S. Department of Transportation (DOT), the ACOE, and the Environmental Protection Agency (EPA).

In general, two different mechanisms in section 7 consultations could lead to additional regulatory requirements. First, if we conclude in a biological opinion that a proposed action is likely to jeopardize the continued existence of a species or adversely modify its critical habitat, we can offer ''reasonable and prudent alternatives.'' Reasonable and prudent alternatives are alternative actions that can be implemented in a manner consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that would avoid jeopardizing the continued existence of listed species or resulting in adverse modification of critical habitat. A Federal agency and an applicant may elect to implement a reasonable and prudent alternative associated with a biological opinion that has found jeopardy or adverse modification of critical habitat. An agency or applicant could alternatively choose to seek an exemption from the requirements of the Act or proceed without implementing the reasonable and prudent alternative. However, unless an exemption were obtained, the Federal agency or applicant would be at risk of violating section 7(a)(2) of the Act if it chose to proceed without implementing the reasonable and prudent alternatives. Secondly, if we find that a proposed action is not likely to jeopardize the continued existence of a listed animal species, we may identify reasonable and prudent measures designed to minimize the amount or extent of take and require the Federal agency or applicant to

implement such measures through non-discretionary terms and conditions. We may also identify discretionary conservation recommendations designed to minimize or avoid the adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or develop information that could contribute to the recovery of the species.

Based on our experience with section 7 consultations for all listed species, virtually all projects-including those that, in their initial proposed form, would result in jeopardy or adverse modification determinations in section 7 consultations-can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation.

In summary, we have considered whether this proposed rule would result in a significant economic impact on a substantial number of small entities and find that it would not. The entire designation involves approximately 3,857 ha (9,516 ac) within 25 units, of which approximately 1,620 ha (4,000 ac) is under federal ownership and approximately 284 ha (700 ac) is under State ownership. The majority of the remaining acreage is under private ownership, but includes City of San Antonio park lands, and City, County and State right of ways, roads, and municipal lands. However, probable future land uses in these areas are expected to have a Federal nexus or require section 7 consultation (for example, road and utility development projects, water crossings, etc.). These projects may require Federal permits. In these areas, Federal involvement—and thus section 7 consultations, the only trigger for economic impact under this rule—would be limited to a subset of the area proposed. The most likely Federal involvement would be associated with activities involving the DOD, Federal Highways Administration (FHA), DOT, the EPA, ACOE, or the FEMA. This rule may result in project modifications when proposed Federal activities would destroy or adversely modify critical habitat. While this may occur, it is not expected frequently enough to affect a substantial number of small entities. Even when it does occur, we do not expect it to result in a significant economic impact since we expect that most proposed projects, with or without modification, can be implemented in such a way as to avoid adversely modifying critical habitat, as the measures included in reasonable and prudent alternatives must be economically feasible and consistent with the proposed action. We are certifying that the proposed designation of critical habitat for the nine endangered Bexar County invertebrate species will not have a significant economic impact on a substantial number of small entities and that this proposed rule does not meet the criteria under SBREFA as a major rule: Therefore an initial regulatory flexibility analysis is not required.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. Although this rule is a significant action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use since the majority of the lands being proposed as critical habitat occur on privately owned lands that are primarily developed for agricultural and residential uses, and not energy production or distribution. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq*.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 August 25, 2000 *et seq*.):

a. This rule, as proposed, 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 species, and no further restrictions are anticipated to result from critical habitat designation of occupied areas. In our economic analysis, we will evaluate any impact of designating areas where section 7 consultations would not have occurred but for the critical habitat designation.

b. This rule, as proposed, will not produce a Federal mandate on State, local, or tribal governments or the private sector 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 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of the proposed listing and designation of critical habitat for these nine karst invertebrates. The takings implications assessment concludes that this proposed rule does not pose significant takings implications. A copy of this assessment is available by contacting the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office (see **ADDRESSES** section).

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. As discussed above, the designation of critical habitat in areas currently occupied by the nine endangered karst invertebrates would have little incremental impact on State and local governments and their activities. The designations may have some benefit to these governments in that the areas essential to the conservation of these species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival of the species are identified. While this designation 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 consultation to occur.

Civil Justice Reform

In accordance with E.O. 12988, the Department of the Interior's Office of the Solicitor has determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We propose to designate critical habitat in accordance with the provisions of the Act, and will plan public hearings on the proposed designation during the comment period, if requested. We plan to hold at least one public hearing and the date for this hearing will be published in separate notice. We also plan to hold an informational meeting in Bexar County on September 10, 2002. This meeting will take place from 6 pm to 7:30 pm at the Great Northwest Library, 9050 Wellwood, San Antonio, Texas. We will send letters inviting all interested individuals to attend and will advertise the meeting in the area newspaper. 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 nine endangered karst invertebrates.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*)

This rule does not contain any information collection requirements for which OMB approval under the Paperwork Reduction Act is required. Information collections associated with Endangered Species permits are covered by an existing OMB approval, which is assigned control number 1018–0094 and which expires on July 31, 2004. 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 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 Endangered Species Act as amended. A notice outlining our reason for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244). This proposed rule does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a Government-to-Government basis. The proposed designation of critical habitat for the nine karst invertebrates does not contain any Tribal lands or lands that we have identified as impacting Tribal trust resources.

References Cited

A complete list of all references cited in this proposed rule is available, upon request, from the U.S. Fish and Wildlife Service, Austin Ecological Services Field Office (see **ADDRESSES** section).

Author

This rule was prepared by the U.S. Fish and Wildlife Service, Austin Ecological Services Field 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, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended 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 entries for Beetle, Helotes mold; Beetle [no common name] (*Rhadine exilis*); and Beetle [no common name] (*Rhadine infernalis*) under ''INSECTS''; remove the entries for Harvestman, Robber Baron Cave; Spider, Government Canyon Cave; Spider, Madla's Cave; Spider [no common name] (Cicurina venii); Spider, Robber Baron Cave; and Spider, vesper cave; and add entrees for Harvestman, Cokendolpher cave; Meshweaver, Braken Bat Cave; Meshweaver, Government Canyon Bat Cave; Meshweaver, Madla Cave; Meshweaver, Robber Baron Cave; and Spider, Government Canyon Bat Cave under ''ARACHNIDS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate[1]	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * * *		*		*		*	
INSECTS							
* * * *		*		*		*	
Beetle, Helotes mold	*Batrisodes venyivi*	U.S.A. (TX)	NA	E	706	19.95(i)	NA
* * * *		*		*		*	
Beetle, [no common name]	*Rhadine exilis*	U.S.A. (TX)	NA	E	706	19.95(i)	NA
Beetle, [no common name]	*Rhadine infernalis*	U.S.A. (TX)	NA	E	706	19.95(i)	NA
* * * *		*		*		*	
ARACHNIDS							
* * * *		*		*		*	
Harvestman, Cokendolpher Cave	*Texella cokendolpher*	U.S.A. (TX)	NA	E	706	19.95(g)	NA
Meshweaver, Braken Bat Cave	*Cicurina venii*	U.S.A. (TX)	NA	E	706	19.95(g)	NA
Meshweaver, Government Canyon Bat Cave.	*Cicurina vespera*	U.S.A. (TX)	NA	E	706	19.95(g)	NA
Meshweaver, Madia Cave	*Cicurina madla*	U.S.A. (TX)	NA	E	706	19.95(g)	NA
Meshweaver, Robber Baron Cave	*Cicurina baronia*	U.S.A. (TX)	NA	E	706	19.95(g)	NA
* * * *		*		*		*	
Spider, Government Canyon Bat Cave.	*Neoleptoneta microps*	U.S.A. (TX)	NA	E	706	19.95(g)	NA
* * * *		*		*		*	

[1] Vertebrate population where endangered or threatened.

3. Amend § 17.95 by adding, in the same alphabetical order as these species occur in § 17.11(h):

a. In paragraph (g), critical habitat for the Cokendolpher cave harvestman (*Texella cokendolpheri*);

b. In paragraph (g), critical habitat for the Robber Baron Cave meshweaver (*Cicurina baronia*);

c. In paragraph (g), critical habitat for the Madla Cave meshweaver (*Cicurina madla*);

d. In paragraph (g), critical habitat for the Braken Bat Cave meshweaver (*Cicurina venii*);

e. In paragraph (g), critical habitat for the Government Canyon Bat Cave meshweaver (*Cicurina vespera*);

f. In paragraph (g), critical habitat for the Government Canyon Bat Cave spider (*Neoleptoneta microps*);

g. In paragraph (i), critical habitat for the ground beetle (no common name), (*Rhadine exilis*);

h. In paragraph (i), critical habitat for the ground beetle (no common name), (*Rhadine infernalis*); and

i. In paragraph (i), critical habitat for the Helotes mold beetle (*Batrisodes venyivi*).

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(g) Arachnids. * * *

Braken Bat Cave Meshweaver (*Cicurina venii*)

(1) Critical habitat for the Braken Bat Cave meshweaver in Bexar County, Texas, occurs in Unit 15 which is described in the text and depicted on Maps 1 and 7 under the ground beetle (*Rhadine infernalis*). The primary constituent elements and the exclusion of existing structures and associated landscaping as described in paragraphs (2) and (3) under the ground beetle *Rhadine exilis* are identical for this species.

Cokendolpher Cave Harvestman (*Texella cokendolpheri*)

(1) Critical habitat for the Cokendolpher cave harvestman occurs in Unit 20 as described below and depicted on Map 1 found under the ground beetle (*Rhadine exilis*) and Map 8 below. The primary constituent elements and exclusion of existing structures and associated landscaping as described in paragraphs (2) and (3) under the ground beetle *Rhadine exilis* are identical for this species.

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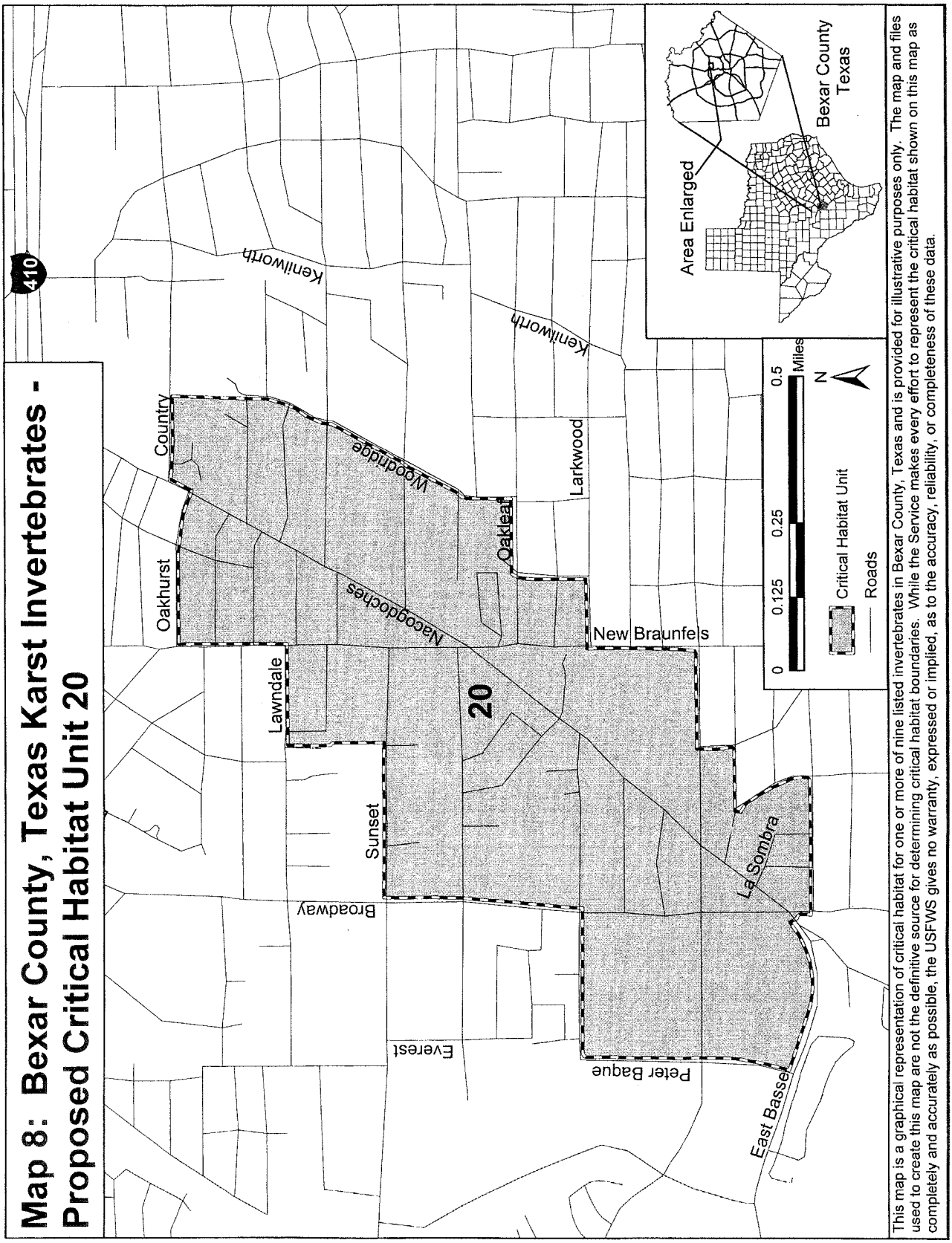

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(2) Surface vegetation within Unit 20 has been significantly reduced and degraded as a result of urban development. Lands within this unit do not contain the primary constituent element of a healthy surface community of native vegetation. Therefore, this unit is being designated as critical habitat based solely on the presence of an intact subsurface environment.

(3) Unit 20—(160 ha (395 ac)): From a point at the intersection of Basse Road and Peter Baque Road (2136763, 13728730), north along the east side of Peter Baque Road, then east along the south side of Lorenz Road, then north along the east side of Broadway, and continuing east along the south side of East Sunset Road to a point at 2139684, 13732380. From this point, north to Court Circle and continuing north along the east side of Court Circle, then east along the south side of Lawndale Avenue to New Braunfels and continuing north along the east side of New Braunfels to Oakhurst. From this point, east along the south side of Oakhurst to Nacogdoches, then north along the east side of Nacogdoches to Country and continuing east along the south side of Country to a point at 2142805, 13734290. From this point, south to a point at Woodridge Drive (2142796, 13733617), then continuing south along the west side of Woodridge Drive to Oakleaf Drive, then west along the north side of Oakleaf Drive to Woodbine, then continuing south along the west side of Woodbine to Larkwood Drive and continuing west along the north side of Larkwood to New Braunfels. From this point, south along the west side of New Braunfels to Robinhood Place and west along the north side of Robinhood Place to La Sombra, then continuing south on the west side of La Sombra to Claywell Drive. From this point, west along the north side of Claywell Drive to Nacogdoches and north along the east side of Nacogdoches to Basse Road, then continuing west along the north side of Basse Road to the point of origin.

Government Canyon Bat Cave Meshweaver (*Cicurina vespera*)

(1) Critical habitat for the Government Canyon Bat Cave meshweaver in Bexar County, Texas, occurs in unit 1b which is described in the text and depicted on Maps 1 and 2 under the ground beetle (*Rhadine exilis*). The primary constituent elements and the exclusion of existing structures and associated landscaping as described in paragraphs (2) and (3) under the ground beetle *Rhadine exilis* are identical for this species.

Government Canyon Bat Cave Spider (*Neoleptoneta microps*)

(1) Critical habitat for the Government Canyon Bat Cave Spider (*Neoleptoneta microps*) in Bexar County, Texas, occurs in units 1a and 1b which are described in the text and depicted on Maps 1 and 2 under the ground beetle (*Rhadine infernalis*). The primary constituent elements and the exclusion of existing structures and associated landscaping as described in paragraphs (2) and (3) under the ground beetle *Rhadine exilis* are identical for this species.

Madla Cave Meshweaver (*Cicurina madla*)

(1) Critical habitat for the Madla Cave meshweaver in Bexar County, Texas, occurs in units 2, 3, 5, 8, and 10 which are described under the ground beetle (*Rhadine exilis*) and Unit 17 which is described under the ground beetle (*Rhadine infernalis*). In addition, critical habitat for the Madla Cave meshweaver occurs in Unit 1c as described below. These units are depicted on Maps 1, 2, 3, 4, and 5 found under the ground beetle (*Rhadine exilis*). The primary constituent elements, the exclusion of existing structures and associated landscaping, and the exclusion of lands that do not meet the definition of critical habitat as described in paragraphs (2) and (3) under the ground beetle *Rhadine exilis* and paragraph (2) under the ground beetle *Rhadine infernalis* are identical for this species.

(2) Unit 1c (47 ha (116 ac)): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2049690.24023, 13758634.2779; 2047438.24023, 13758634.2779; 2049690.24023, 13756382.2779; 2047438.24023, 13756382.2779.

Robber Baron Cave Meshweaver (*Cicurina baronia*)

(1) Critical habitat for the Robber Baron Cave meshweaver in Bexar County, Texas, occurs in Unit 20 which is described in the text and depicted in Map 8 found under the Cokendolpher cave harvestman as well as Map 1 found under the ground beetle (*Rhadine exilis*). The criteria upon which Unit 20 was designated as described in paragraph (2) under Cokendolpher cave harvestman is identical for this species. The primary constituent elements and the exclusion of existing structures and associated landscaping as described in paragraphs (2) and (3) under the ground beetle (*Rhadine exilis*) are identical for this species.

* * * * *

(i) Insects. * * *

Ground Beetle (No Common Name), (*Rhadine exilis*)

(1) Critical habitat for the ground beetle (*Rhadine exilis*) in Bexar County, Texas, occurs in units 1b, 1e, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, and 21 as described below and as depicted on Maps 1, 2, 3, 4, 5, and 6 below. All coordinates are given in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83). Coordinates were derived from recent digital orthophotographs.

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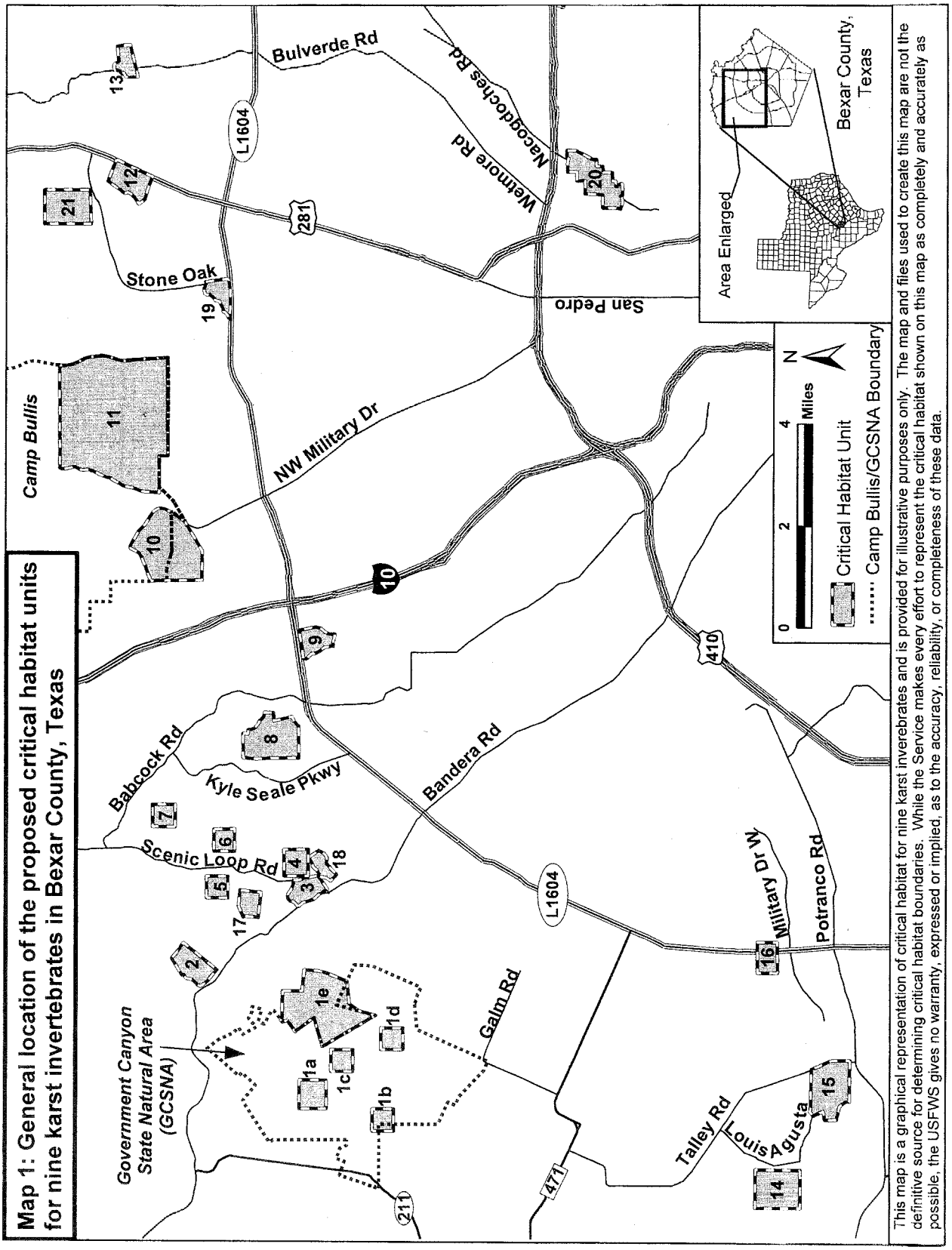
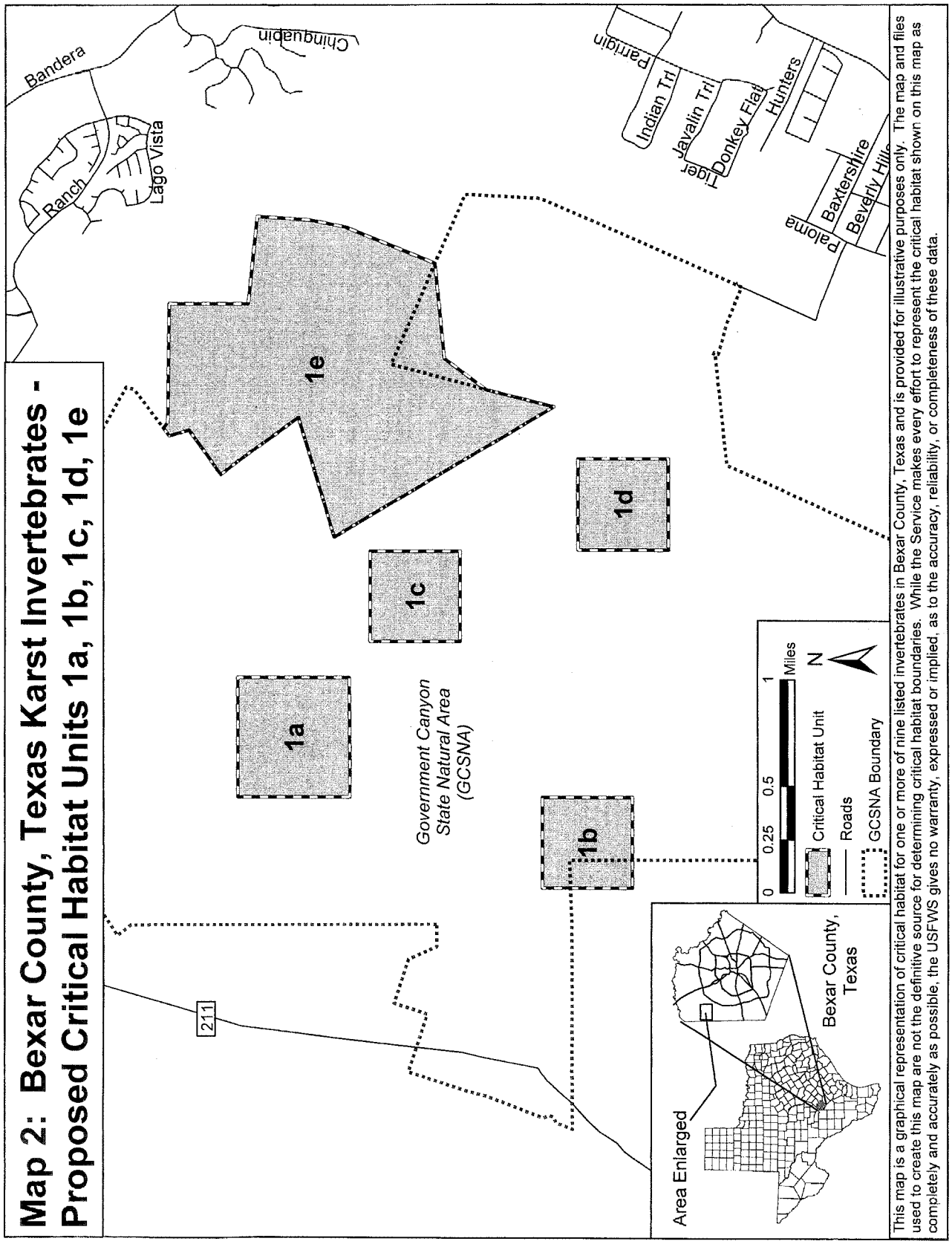
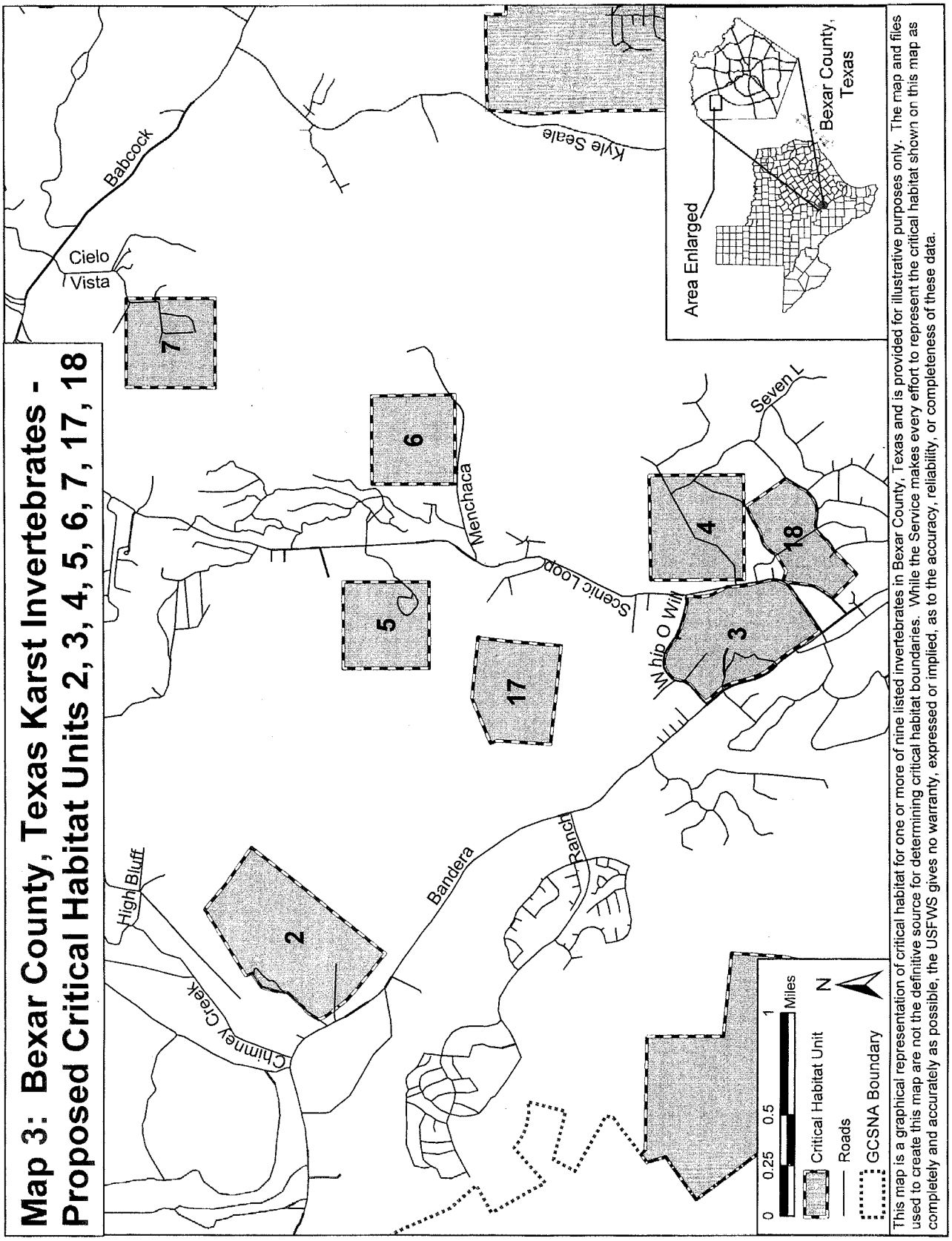
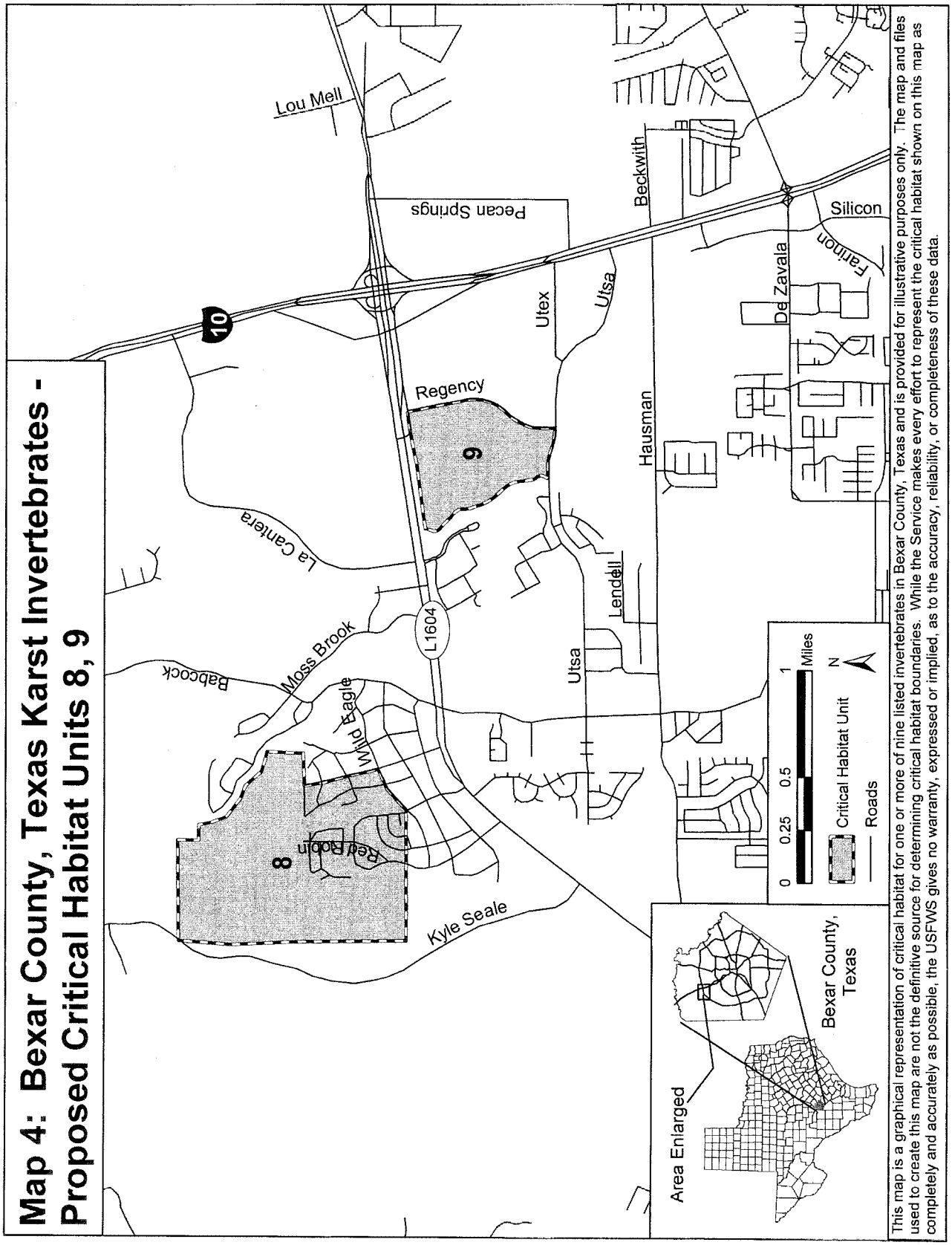
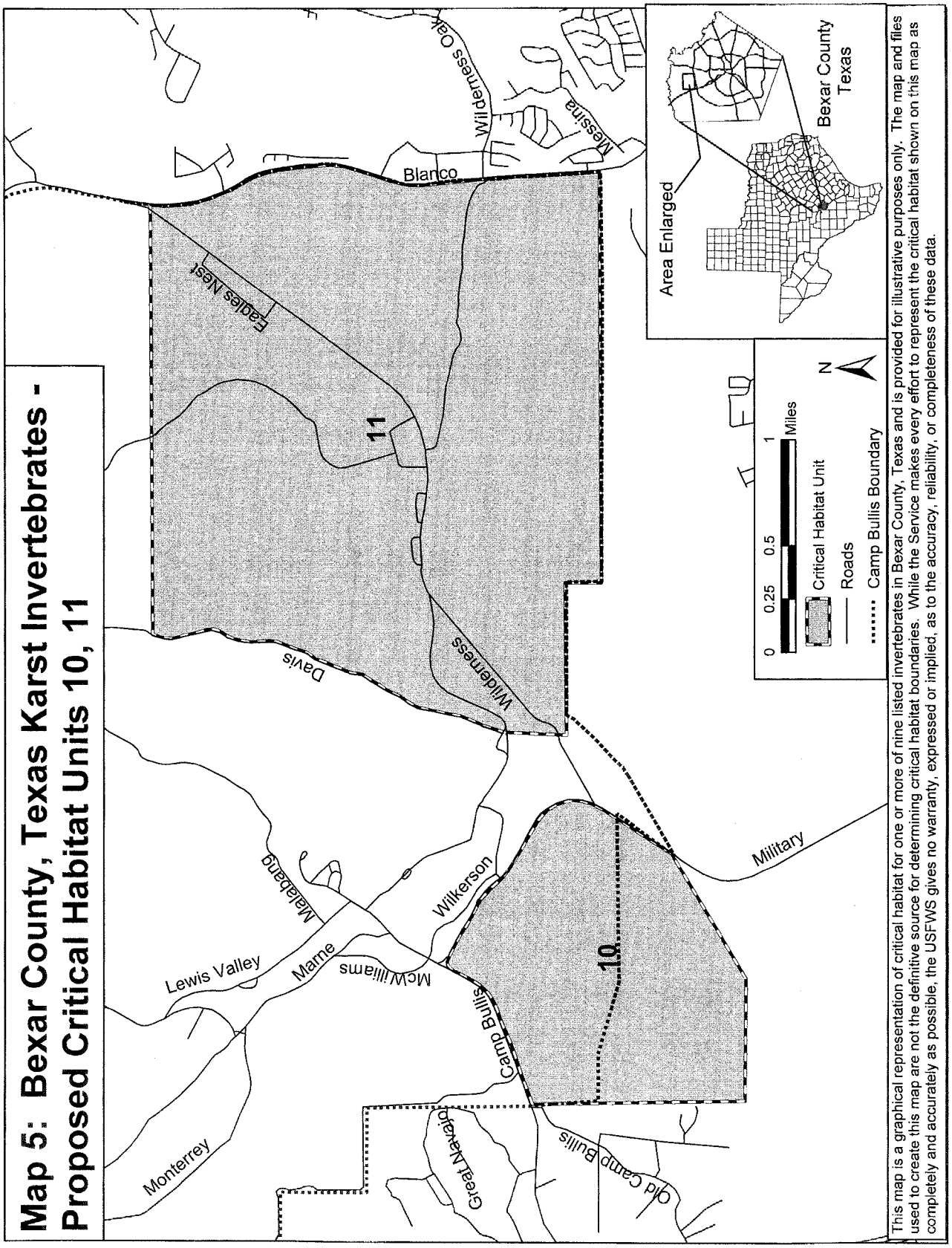
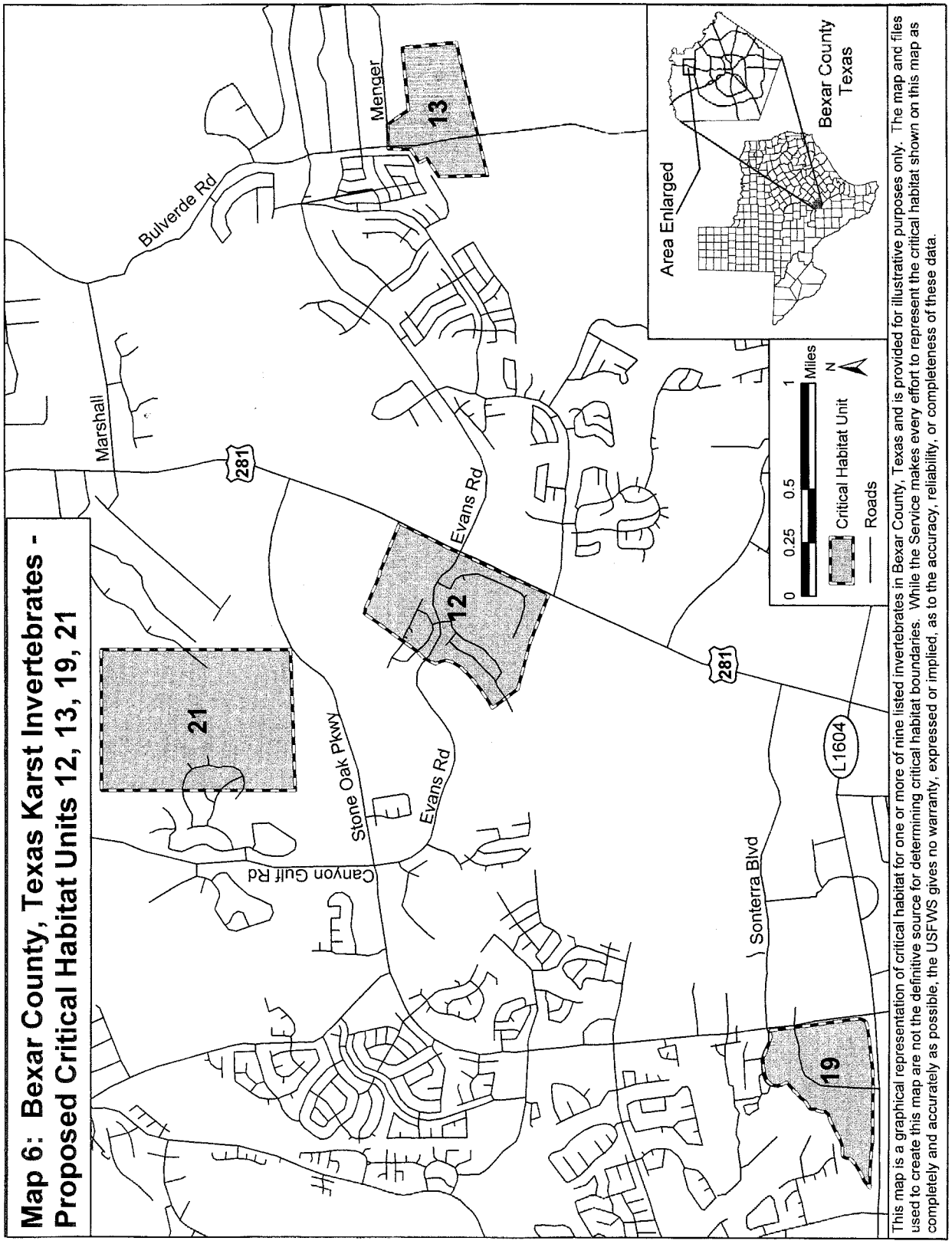

Map 1: General location of the proposed critical habitat units for nine karst invertebrates in Bexar County, Texas
Camp Bullis
Government Canyon State Natural Area (GCSNA)
Bulverde Rd
Stone Oak
NW Military Dr
Babcock Rd
Kyle Seale Pkwy
Scenic Loop Rd
Bandera Rd
Galm Rd
Talley Rd
Louis Agusta
Military Dr W
Potranco Rd
Wellmore Rd
Nacogdoches Rd
San Pedro
L1604
281
10
410
211
471
Area Enlarged
Bexar County, Texas
N
0
2
4
Miles
Critical Habitat Unit
Camp Bullis/GCSNA Boundary
This map is a graphical representation of critical habitat for nine karst inverebrates and is provided for illustrative purposes only. The map and files used to create this map are not the definitive source for determining critical habitat boundaries. While the Service makes every effort to represent the critical habitat shown on this map as completely and accurately as possible, the USFWS gives no warranty, expressed or implied, as to the accuracy, reliability, or completeness of these data.


Map 2: Bexar County, Texas Karst Invertebrates - Proposed Critical Habitat Units 1a, 1b, 1c, 1d, 1e
Bandera
Lago Vista
Ranch
Chinquapin
Parrigin
Indian Trl
Javalin Trl
Donkey Flat
Hunters
Paloma
Baxtershire
Beverly Hills
1e
1d
1c
1a
1b
Government Canyon State Natural Area (GCSNA)
211
0 0.25 0.5 1 Miles
N
Critical Habitat Unit
Roads
GCSNA Boundary
Area Enlarged
Bexar County, Texas
This map is a graphical representation of critical habitat for one or more of nine listed invertebrates in Bexar County, Texas and is provided for illustrative purposes only. The map and files used to create this map are not the definitive source for determining critical habitat boundaries. While the Service makes every effort to represent the critical habitat shown on this map as completely and accurately as possible, the USFWS gives no warranty, expressed or implied, as to the accuracy, reliability, or completeness of these data.


Map 3: Bexar County, Texas Karst Invertebrates - Proposed Critical Habitat Units 2, 3, 4, 5, 6, 7, 17, 18
Babcock
Cielo Vista
Kyle Seale
Menchaca
Seven L
Scenic Loop
Whip O Will
High Bluff
Chimney Creek
Bandera
Ranch
Area Enlarged
Bexar County, Texas
2
3
4
5
6
7
17
18
0 0.25 0.5 1 Miles
Critical Habitat Unit
Roads
GCSNA Boundary
N
This map is a graphical representation of critical habitat for one or more of nine listed invertebrates in Bexar County, Texas and is provided for illustrative purposes only. The map and files used to create this map are not the definitive source for determining critical habitat boundaries. While the Service makes every effort to represent the critical habitat shown on this map as completely and accurately as possible, the USFWS gives no warranty, expressed or implied, as to the accuracy, reliability, or completeness of these data.


Map 4: Bexar County, Texas Karst Invertebrates - Proposed Critical Habitat Units 8, 9
Lou Mell
Pecan Springs
Beckwith
Silicon
Falcon
De Zavala
Utex
Utsa
Regency
9
Hausman
La Cantera
Moss Brook
Babcock
L1604
Lendell
Utsa
Wild Eagle
Red Robin
8
Kyle Seale
0 0.25 0.5 1 Miles
N
Critical Habitat Unit
Roads
Area Enlarged
Bexar County, Texas
This map is a graphical representation of critical habitat for one or more of nine listed invertebrates in Bexar County, Texas and is provided for illustrative purposes only. The map and files used to create this map are not the definitive source for determining critical habitat boundaries. While the Service makes every effort to represent the critical habitat shown on this map as completely and accurately as possible, the USFWS gives no warranty, expressed or implied, as to the accuracy, reliability, or completeness of these data.


Map 5: Bexar County, Texas Karst Invertebrates - Proposed Critical Habitat Units 10, 11
Wilderness Oak
Blanco
Messina
Eagles Nest
11
Davis
Wilderness
Malabang
Wilkerson
Lewis Valley
Marne
McWilliams
Camp Bullis
10
Military
Monterrey
Great Navajo
Old Camp Bullis
Area Enlarged
Bexar County Texas
0 0.25 0.5 1 Miles
Critical Habitat Unit
Roads
Camp Bullis Boundary
N
This map is a graphical representation of critical habitat for one or more of nine listed invertebrates in Bexar County, Texas and is provided for illustrative purposes only. The map and files used to create this map are not the definitive source for determining critical habitat boundaries. While the Service makes every effort to represent the critical habitat shown on this map as completely and accurately as possible, the USFWS gives no warranty, expressed or implied, as to the accuracy, reliability, or completeness of these data.



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(2) Within these areas the primary constituent elements include: (a) the physical features of karst-forming rock containing subterranean spaces with stable temperatures, high humidities (near saturation) and suitable substrates (for example, spaces between and underneath rocks suitable for foraging and sheltering), and (b) the biological features of a healthy surface community of native plants (for example, juniper-oak woodland) and animals (for example, cave crickets) surrounding the karst feature that provides nutrient input and buffers the karst ecosystem from adverse effects (from, for example, non-native species invasions, contaminants, and fluctuations in temperature and humidity).

(3) Existing human-constructed, above ground, impervious structures and associated landscaping within the boundaries of mapped units do not contain the primary constituent elements and are not considered to be critical habitat. Such features and structures include but are not limited to buildings, paved roads, and lawns. However, areas below ground under these structures and associated landscaping are considered to be critical habitat since subterranean spaces containing these species and/or transmitting moisture and nutrients through the karst ecosystem extend, in some cases, underneath these existing human-constructed structures.

(4) Seven caves and their associated preserve lands established under the La Cantera section 10(a)(1)(B) permit were excluded from the proposed critical habitat designation. These include Canyon Ranch Pit, Fat Man's Nightmare Cave, and Scenic Overlook Cave and the surrounding approximately 30 ha (75 ac) (within Unit 1e); Helotes Blowhole and Helotes Hilltop caves and the surrounding approximately 10 ha (25 ac) (within Unit 3); John Wagner Cave No. 3 and the surrounding approximately 4 acres (within Unit 6); Hills and Dales Pit and the surrounding approximately 28 ha (70 ac) (within Unit 8). As required under their permit, La Cantera purchased these karst preserves through conservation easement and/or fee simple title and will ensure that they will be preserved in perpetuity and managed in accordance with the conservation needs of the species.

(5) Unit 1b—(47 ha (116 ac)): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2043579.74934, 13754314.707; 2041327.74934, 13754314.707; 2043579.74934, 13752062.707; 2041327.74934, 13752062.707.

(6) Unit 1e—(341 ha (842 ac)): From a point at 2050035, 13759440 at the western corner of property number 902601605 east along the northern side of this property to a point at 2053120, 13760090 the continuing northwest along the west side of property numbers 902601605, 323075421, and 323075422 to at point at 2051713, 13762282. From this point, northeast along the north side of property numbers 323075422 and 902601659 at a point at 2052904, 13763744 then east to a point at 2057992, 13761497. From this point, along the east side of property number 323075422 it its intersection with property number 902601607 at point 2055759, 13761684 and continuing along the north and east sides of this property to its intersection with property number 328074996 a point at 2056900, 13756956. From this point, west across property number 328074996 to a point at 2054491, 13756784, then southwest to a point at 2053656, 13755987 then continuing south along the east side of property number 902601605 to a point at 2053217, 13753954. From this point, along the west side of property number 902601605 and continuing to the point of origin.

(7) Unit 2—(99 ha (245 ac)): From a point northeast of Bandera Road at 2056212, 13772285 and along the northwest boundary of parcel numbers 102700035,102700038 and 304031966 to a point at 2059148.29808, 13775208.8182. From this point, southeast to a point at 2060764.66944, 13773969.8333 then along the eastern boundaries of parcel numbers 314033835, 327077286, 327077287, 102800425, and 102700316 to a point at 2057993.6191, 13770481.7691. From this point, northwest to the point of origin.

(8) Unit 3—(63 ha (154 ac)): From the southeastern corner of the intersection of Bandera Road and Whip-O-Will Way (2064533, 13762115) along the south side of Whip-O-Will Way to its intersection with Scenic Loop Road (2067284, 13762583), then continuing south along the west, northwest side of Scenic Loop Road to its intersection with Bandera Road (2066368, 13759105). From this point, north along the east side of Bandera Road to the point of origin.

(9) Unit 4—(63 ha (154 ac): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2070429.51759, 13763548.8939; 2067696.85493, 13763518.531; 2070444.69905, 13761074.316; 2067706.57475, 13761075.054.

(10) Unit 5—(47 ha (116 ac): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2067655.77864, 13771578.6572; 2065403.77864, 13771578.6572; 2067655.77864, 13769326.6572; 2065403.77864, 13769326.6572.

(11) Unit 6—(45 ha (111 ac): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2072498.41982, 13770816.0997; 2070213.53298, 13770816.0997; 2072523.11604, 13768630.4844; 2070213.53298, 13768630.4844.

(12) Unit 7—(50 ha (123 ac): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2075042.48817, 13777212.4498; 2072740.24441, 13777212.4498; 2075042.48817, 13774888.2263; 2072720.54786, 13774894.8227.

(13) Unit 8—(174 ha (428 ac): From a point 2079943.53971, 13767755.6785 along the east side of Kyle Seale Parkway to a point at 2082440.28711, 13767779.6857, south to a point at 2082429.79996, 13767253.8126 then east to a point at 2082818.17238, 13767241.1953. From this point, along the northern side of parcel number 309072242 southeast to a point at 2084641.50301, 13765539.4201, south to a point at 2084605.03639, 13764652.0659 then west to a point at 2083790.61538, 13764615.5992. From this point south along the west side of White Fawn Drive and continuing southwest along the north side of Wild Eagle Road to its intersection with Cotton Tail. From this point, west to a point at 2079949.46553, 13762062.9364 then continuing north to the point of origin.

(14) Unit 9—(71 ha (175 ac): From at point at 2090191, 13761607, roughly the intersection of an unnamed tributary of Leon Creek and the south side of the Loop 1604 access road, to the intersection of the access road and Regency Boulevard (2093082, 13762048). From this point, south along the west side of Regency Boulevard to its intersection with UTSA Boulevard (2092690, 13758365), then west along the north side of UTSA Boulevard to a point at 2091449, 13758365, roughly the intersection of UTSA Boulevard and the

unnamed tributary of Leon Creek. From this point, north along the unnamed tributary to the point of origin.

(15) Unit 10—(367 ha (906 ac)): From a point at 2098282, 13772161 at the southwest corner of parcel number 900200036 north along the western boundary of this parcel and parcel number 308042407 to its intersection with Camp Bullis Road then continuing east along the south side of Camp Bullis Road/Military Road to a point at 2105279, 13775376. From this point, in a straight line southwest to a point at 2100600, 13772093 and continuing west along a straight line to the point of origin.

(16) Unit 11—(1,273 ha (3,143 ac)): From a point at 2109871, 13786962 east to its intersection with Blanco Road (2120517, 13787010), then south along the west side of Blanco Road to a point at 2121336, 13775793. From this point west to the southeast corner of parcel number 308042407, then west along this parcel boundary to a point at 2107371, 13776670, then north to Davis (2107420, 13778177). From this point, north, northeast along Davis to the point of origin.

(17) Unit 12—(105 ha (258 ac)): From a point at 2140092, 13777425 at the west side of U.S. 281 northwest in a straight line to a point at 2139015, 13777798 and continuing northwest in a straight line to a point at 2137707, 13778176 at the southwest corner of parcel number 311074749. From this point, continuing along the southwest boundary of this parcel across Cactus Bluff and along the southwest boundary of parcel number 311074761 to a point at 2137298, 13778787 at the west side of Mud Creek and continuing northeast along the west side of Mud Creek to a point at 2138316, 13780237. From this point, crossing parcel number 308040085 and Evans Road to a point at 2138477, 13780521. From this point, northeast along a straight line to a point at 2139612, 13782045, then southeast to a point at 2141858, 13781138 on the west side of U.S. 281 then continuing southwest along straight line to the point of origin.

(18) Unit 13—(51 ha (125 ac)): From a point at 2151154.85239, 13781383.2606 on the west side of the right-of-way of Bulverde Road, east along the south side of Ridgeway Drive to a point at 2151768.28065, 13781397.6942 then southeast to a point at 2152129.1208, 13780885.3011. From this point, east along the north side of parcel number 327077436 to a point at 2153655.9118, 13781029.8389, south at a point at 2153780.292, 13779672.9217 then south west to a point at 2150481.68089, 13778900.3523. From this point, north to a point at 2150462.0393, 13780127.5368, northeast to a point at 2150916.69789, 13780416.209, northwest to a point at 2150815.66265, 13780618.2794 then northeast to a point at 2151140.41879, 13780827.5667 and continuing north to the point of origin.

(19) Unit 21—(155 ha (382 ac)): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2138699.75321, 13788566.4781; 2135213.28358, 13788585.4663; 2138699.75321, 13783861.5804; 2135213.28358, 13783753.9781.

Ground Beetle (No Common Name), (*Rhadine infernalis*)

(1) Critical habitat for the ground beetle (*Rhadine infernalis*) in Bexar County, Texas, occurs in units 1b, 1e, 2, 3, 4, 5, 6, 8, and 10 which are described under the ground beetle (*Rhadine exilis*). In addition, critical habitat for the ground beetle (*Rhadine infernalis*) occurs in units 1a, 1d, 14, 15, 16, 17, 18, and 19, as described below. These units are depicted on Maps 1, 2, 3, 4, 5, and 6 found under the ground beetle (*Rhadine exilis*) and on Map 7 below. The primary constituent elements, the exclusion of existing structures and associated landscaping, and the exclusion of lands that do not meet the definition of critical habitat as described in paragraphs (2), (3), and (4) under the ground beetle *Rhadine exilis* are identical for this species.

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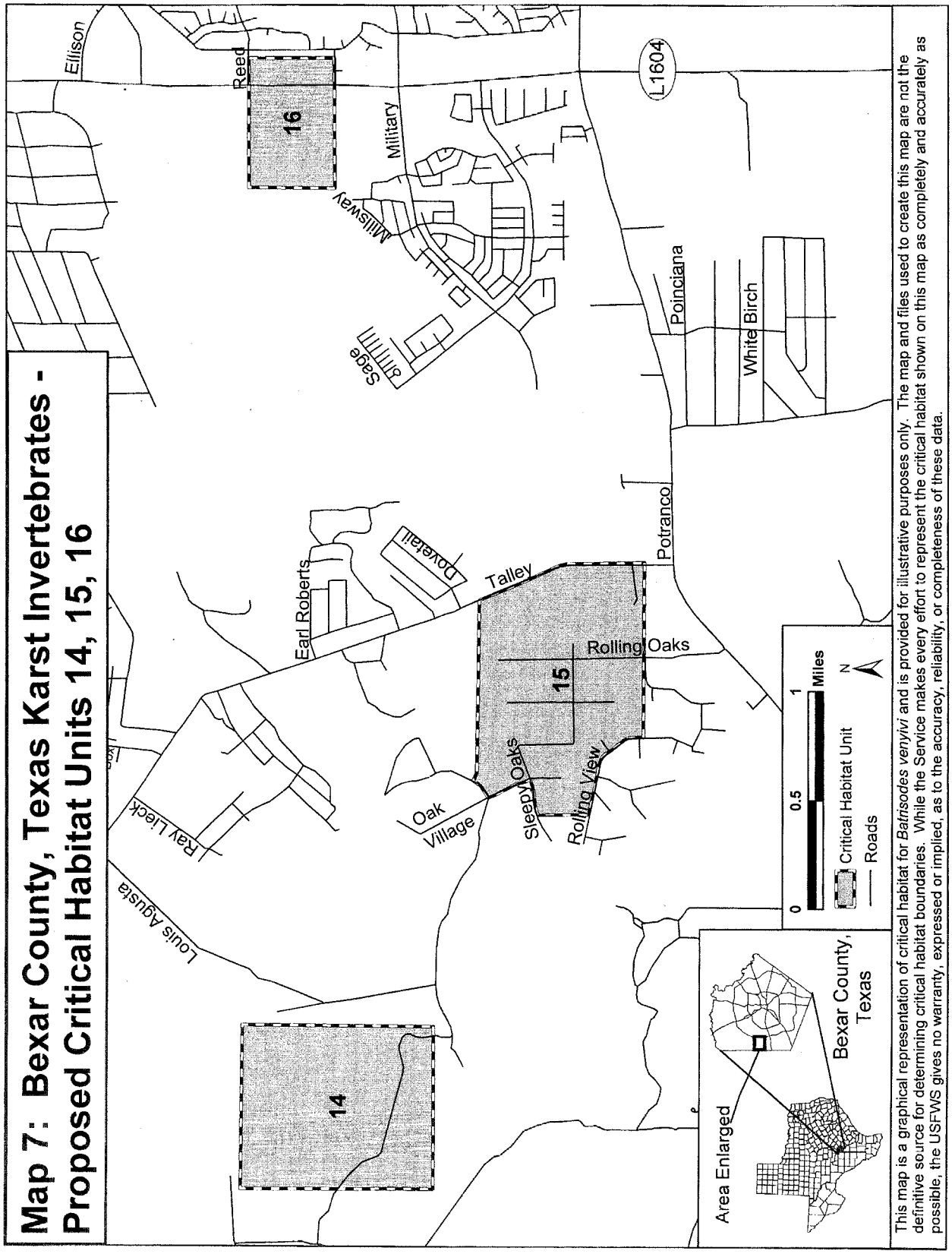

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(2) Within Unit 17, one cave and its surrounding preserve area (Madla's Cave and the surrounding approximately 2 ha (5 ac)) was excluded from the proposed critical habitat designation. As required by their section 10(a)(1)(B) permit, La Cantera purchased this karst preserve and will ensure that it will be preserved in perpetuity and managed in accordance with the conservation needs of the species.

(3) Surface vegetation within Unit 19 has been significantly reduced and degraded as a result of urban development. Lands within this unit do not contain the primary constituent element of a healthy surface community of native vegetation. Therefore, this unit is being designated as critical habitat based solely on the presence of an intact subsurface environment.

(4) Unit 1a—(76 ha (188 ac)): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2046534.1202, 13761922.7115; 2043576.6972, 13761922.7116; 2046534.1202, 13759160.7825; 2043576.6972, 13759144.7312.

(5) Unit 1d—(47 ha (116 ac)): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2051979.54342, 13753424.1693; 2049727.54342, 13753424.1693; 2051979.54342, 13751172.1693; 2049727.54342, 13751172.1693.

(6) Unit 14—(173 ha (426 ac)): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2037495.68795, 13714343.6913; 2033513.40946, 13714379.0476; 2037458.92845, 13709675.2356; 2033521.81129, 13709675.2356.

(7) Unit 15—(195 ha (481 ac)): From a point at 2044508, 13704550 and continuing along the east side of Rolling View to a point at 2042620, 13705900. From this point, north along a straight line to a point at 2042634, 13706518 at the south end of Honey Oaks and continuing along the east side of Honey Oaks to Sleepy Oaks then along the south side of Sleepy Oaks to its intersection with Oak Village. From this point, continuing north along the east side of Oak Village to Pheasant Drive, then northeast along a straight line to a point at 2043413, 13708727 and continuing along the same line to a point at 2047835, 13708557 on the west side of Talley Road, and continuing south along the west side of Talley Road to a point at 2048750, 13704509 and continuing west along a straight line to the point of origin.

(8) Unit 16—(61 ha (152 ac)): Unit consists of four boundary points with the following coordinates in Texas State Plane (South Central) in feet, referenced to North American Horizontal Datum 1983 (NAD 83): 2061031.60542, 13714210.5326; 2057866.88036, 13714211.0248; 2061031.60542, 13712132.5655; 2057845.30553, 13712123.6599.

(9) Unit 17—(48 ha (118 ac)): From a point 2063406, 13766153 and continuing along the western boundary of parcel numbers 102800326 and 307020398 and along the west and north boundaries of parcel number 102800384 to a point at the northeast corner of parcel number 102800384 (2064828, 13768192). From this point, continuing along the northern boundary of parcel numbers 327075063 and 327075065 to the northeast corner of parcel number 327075065 (2066218, 13768044), then south along the east boundary of parcel numbers 327075065, 102800456, and 102800326 to a point at 2065992, 13765864, then continuing west across parcel number 102800326 to the point of origin.

(10) Unit 18—(40 ha (100 ac)): From the intersection of Old Scenic Loop Road and Scenic Loop Road (2067675, 13760046), northeast along the northern boundary of parcel number 507100487 to the intersection on Monarch Drive and Cash Mountain (2068346, 13760229), then along the southern side of Cash Mountain to the point at 2069624, 13761023. From this point, southeast along a straight line to the intersection with Rafter South Trail at a point at 2070338, 13759988, then along the north side of Rafter South Trail to its intersection with Bar X Trail. From this point, southwest along a straight line to a point at 2067849, 13758117, then northwest to Old Scenic Loop Road (2067231, 13758743) and continuing north along the southeast side of the road to the point of origin.

(11) Unit 19—(59 ha (146 ac)): From a point at 2125364, 13769352 where the Loop 1604 access road intersects Panther Springs Creek, north along Panther Springs Creek to a point at 2127295, 13770776, then continuing northeast along a straight line to a point at 2127967, 13771448 at the southern end of Sonterra Boulevard. From this point, north and east along the east side of Sonterra Boulevard to its intersection with Stone Oak Parkway (2129268, 13771861), then continuing south along the west side of Stone Oak Parkway to its intersection with the Loop 1604 access road and continuing west along a straight line to the point of origin.

Helotes mold beetle (*Batrisodes venyivi*)

(1) Critical habitat for the Helotes mold beetle in Bexar County, Texas, occurs in units 1e, 3, and 5 which are described in the text and depicted on Maps 1, 2, and 3 found under the ground beetle (*Rhadine exilis*). The primary constituent elements, the exclusion of existing structures and associated landscaping, and the exclusion of lands that do not meet the definition of critical habitat as described in paragraphs (2), (3), and (4) under the ground beetle *Rhadine exilis* are identical for this species.

* * * * *

Dated: August 3, 2002.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 02–21477 Filed 8–26–02; 8:45 am]

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LIST OF PUBLIC LAWS

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